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MINING LAWS

United States, Arizona, California

Oregon, Nevada and Utah

INCLUDING LAWS TO LOCATE OIL LANDS

ANNOTATED AND WITH FORMS

SIXTH EDITION

WITH 1915 CHANGES

COMPILED BY

CALVERT WILSON

ATTORNEY AT LAW

340 Wilcox Building, Los Angeles, Cal.

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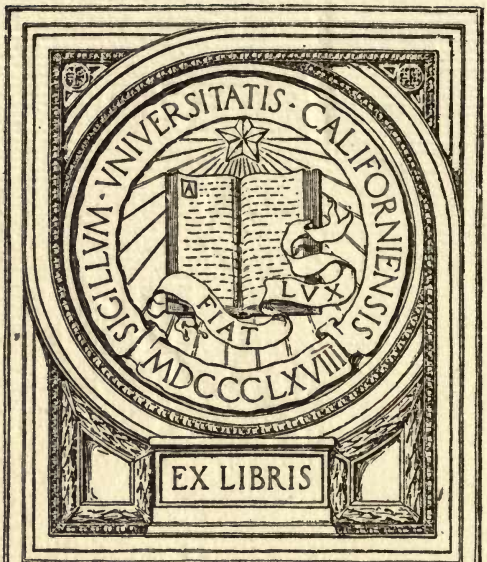
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TO
WILSON'S MINING LAWS

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UNITED STATES

OIL AND PHOSPHATE LANDS—AGRICULTURAL ENTRY. AN ACT to provide for agricultural entry of lands withdrawn, classified, or reported as containing phosphate, nitrate, potash, oil, gas, or asphaltic minerals.

(39 U. S. Stat. 509—July 17, 1914).

Be it enacted, etc., That lands withdrawn or classified as phosphate, nitrate, potash, oil, gas, or asphaltic minerals, or which are valuable for those deposits, shall be subject to appropriation, location, selection, entry, or purchase, if otherwise available, under the non-mineral land laws of the United States, whenever such location, selection, entry, or purchase shall be made with a view of obtaining or passing title with a reservation to the United States of the deposits on account of which the lands were withdrawn or classified or reported as valuable, together with the right to prospect for, mine, and remove the same; but no desert entry made under the provisions of this act shall contain more than 160 acres: **Provided,** That all applications to locate, select, enter, or purchase under this section shall state that the same are made in accordance with and subject to the provisions and reservations of this act.

Section 2. That upon satisfactory proof of full compliance with the provisions of the laws under which the location, selection, entry, or purchase is made, the locator, selector, entryman, or purchaser shall be entitled to a patent to the land located, selected, entered, or purchased, which patent shall contain a reservation to the United States of the deposits on account of which the lands so patented were withdrawn or classified or reported as valuable, together with the right to prospect for, mine, and remove the same, such deposits to be subject to disposal by the United States only as shall be hereafter expressly directed by law. Any person qualified to acquire the reserved deposits may enter upon said lands with a view of prospecting for the same upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting, the measure of any such damage to be fixed by agreement of parties or by a court of competent jurisdiction. Any person who has acquired from the United States the title to or the right to mine and remove the reserved deposits, should the United States dispose of the mineral deposits in lands, may re-enter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the imnerals therefrom, and mine and remove

such minerals, upon payment of damages caused thereby to the owner of the land, or upon giving a good and sufficient bond or undertaking therefor in an action instituted in any competent court to ascertain and fix said damages: **Provided,** That nothing herein contained shall be held to deny or abridge the right to present and have prompt consideration of applications to locate, select, enter, or purchase, under the land laws of the United States, lands which have been withdrawn or classified as phosphate, nitrate, potash, oil, gas, or asphaltic mineral lands, with a view of disproving such classification and securing patent without reservation, nor shall persons who have located, selected, entered, or purchased lands subsequently withdrawn, or classified as valuable for said mineral deposits, be debarred from the privilege of showing, at any time before final entry, purchase, or approval of selection or location, that the lands entered, selected, or located are in fact non-mineral in character.

Sec. 3. That any person who has, in good faith, located, selected, entered, or purchased, or any person who shall hereafter locate, select, enter, or purchase, under the non-mineral land laws of the United States, any lands which are subsequently withdrawn, classified, or reported as being valuable for phosphate, nitrate, potash, oil, gas, or asphaltic minerals, may, upon application therefor, and making satisfactory proof of compliance with the laws under which such lands are claimed, receive a patent therefor, which patent shall contain a reservation to the United States of all deposits on account of which the lands were withdrawn, classified, or reported as being valuable, together with the right to prospect for, mine, and remove the same.

OIL AND GAS LANDS—LOCATORS PROTECTED—AMENDMENT.

AN ACT to amend an Act entitled, "An Act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest," approved March 2, 1911.

(39 U. S. Stat. 708—Aug. 25, 1914.)

Be it enacted, etc., That an act entitled "An Act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest,' approved March 2, 1911, be amended by adding thereto the following section:

"Sec. 2. That where applications for patents have been or may hereafter be offered for any oil or gas land included in

an order of withdrawal upon which oil or gas has heretofore been discovered, or is being produced, or upon which drilling operations were in actual progress on October 3, 1910, and oil or gas is thereafter discovered thereon, and where there has been no final determination by the Secretary of the Interior upon such applications for patent, said Secretary, in his discretion, may enter into agreements, under such conditions as he may prescribe with such applicants for patents in possession of such land or any portions thereof, relative to the disposition of the oil or gas produced therefrom or the proceeds thereof, pending final determination of the title thereto by the Secretary of the Interior, or such other disposition of the same as may be authorized by law. Any money which may accrue to the United States under the provisions of this act from lands within the Naval petroleum reserves shall be set aside for the needs of the Navy and deposited in the Treasury to the credit of a fund to be known as the Navy petroleum fund, which fund shall be applied to the needs of the Navy as Congress may from time to time direct, by appropriation or otherwise."

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ARIZONA

AN ACT. TO AMEND PARAGRAPH 3654, CHAPTER II, TITLE XXIX, OF THE REVISED STATUTES OF ARIZONA, 1913, CIVIL CODE, RELATING TO LIENS ON MINES AND MINING CLAIMS, AND EXEMPTING CLAIMS UNDER BOND AND LEASE FROM THE PROVISIONS THEREOF BY COMPLYING WITH CERTAIN CONDITIONS HEREIN PROVIDED FOR.

(Chapter 67, Laws of 1915.)

Section 1. That Paragraph 3654, Title 29, Chapter 2, Revised Statutes of Arizona, 1913, Civil Code, be and the same is hereby amended to read as follows:

"3654. All miners, laborers and others who may labor, and all persons who may furnish material or merchandise of any kind, designed or used, in or upon any mine, or mining claim, and to whom any sum is due for such labor or material or merchandise, shall have a lien upon the same for such sums as are unpaid. And said lien for labor performed, or material or merchandise furnished, shall attach to said mine, or mining claim, whenever said labor was performed, or said material or merchandise was furnished in or upon said mine or mining claim, under any of the following conditions:

(1). Under or by virtue of a contract between the person performing such labor, or furnishing said material or merchandise, and the owner of said mining claim, or his agent, trustee, receiver, contractor or contractors.

(2). Under or by virtue of a contract between the person performing such labor, or furnishing said material or merchandise, and the lessee of said mine or mining claim, or his agent, or contractor, where the terms of the lease from the owner of said mine or mining claim, to said lessee, permit said lessee to develop or work said mine or mining claim.

(3). Under or by virtue of a contract between persons performing said labor, or furnishing said material or merchandise, and any person or corporation having an option to buy, or contract to purchase said mine or mining claim, from the owner thereof, where said option or contract permits the person or corporation, having said option to buy, or contract to purchase, to go upon said mine or mining claim, and to work or develop the same.

The lien herein provided for shall attach to the mine or mining claim in, or on which said labor was performed, or material or merchandise furnished, in preference to any prior lien or encumbrance, or mortgage upon said mine or mining claim, except such liens, encumbrances, or mortgages which may have attached to any mine or mining claim, prior to December 5, 1912.

Provided, that the provisons of this paragraph shall not apply to any mine or mining claim worked under lease, bond, or option, by any person, partnership, association, company, or corporation, under lease from the owner thereof, when the owner of such mine or mining claim shall have posted at the collar of all working shafts, tunnels or entrances to the mine, entrances to all boarding houses, and shall have mailed by registered mail to the secretary of any labor union at such camp, if any exist, the notice provided for in section two of this act, on or before the day the lessee or those working said claim under bond, lease or option to buy begin operations and shall file for record in the office of the county recorder of the county within which such mine or mining claim is situated, within thirty days from the date of such lease, bond or option of said claim, a notice to the effect that said mine or mining claim will not be subject to the lien provided for in this act, and the owner or owners of said mine or mining claim, will not be responsible for any debts of said person, partnership, association, company, or corporation operating or working said mine or mining claim under lease, bond or option; and provided further, the leassee of said mine shall keep said notices posted upon said claim or claims, and upon his failure to do so shall be deemed guilty of a misdemeanor.

It is hereby made the duty of the county recorder to record all such notices upon the payment of a recording fee of one dollar ($1.00).

Sec. 2. The notice provided for in section one shall be substantially as follows:

NOTICE OF NON LIABILITY FOR LABOR OR MATERIALS FURNISHED.

Notice is hereby given to all persons, that the undersigned .....is the owner of..... mine or mining claim, hereinafter described, with all the improvements thereon.

That said mine or mining claim is now in the possession of and is being worked and operated by....., pursuant to a contract (or option to purchase or lease) made and executed by the undersigned in favor of said..... dated.....; said contract to be in force up to and

including the.....day of....., 19....

The undersigned is not working or operating said mine or mining claim, or any part thereof, and does not intend to work or operate said mine or mining claim, or any part thereof, or purchase any supplies or materials therefor, during the life of said contract with said.....

The name of said mine or mining claim is..... ....., situate, lying and being in..... mining district, in.....County, in the State of Arizona. The location notice of said mine or mining claim being duly recorded in book.....at page..... of notices of location of mining claims, in the office of the County Recorder of said.....County, State of Arizona, to which book and page reference is hereby made for a more particular description of said mine or mining claim.

In witness whereof, the said..... has hereunto set his hand this.....day of....., 19....

.....

Witness:

.....

Sec. 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed."

CALIFORNIA

EMINENT DOMAIN.

An Act to amend Section 1238 of Code of Civil Procedure, relating to the public uses on behalf of which the right of Eminent Domain may be exercised.

(Chapter 31, Laws of 1915.)

This act provides for what uses (including rights of way for ditches, flumes, etc., for mining) the right of eminent domain may be used. For those interested reference is here made to Session Laws of 1915, page 38 for this act.

AGRICULTURAL ENTRY OF MINERAL LAND.

An act to authorize the surveyor general of the State of California to consent to the provisions of the act of congress approved July 17, 1914, entitled "An act to provide for agricultural entry of lands withdrawn, classified, or reported as containing phosphate, nitrate, potash, oil, gas or asphaltic minerals."

(Chapter 66. Approved April 15, 1915.)

Section 1. The surveyor general of the State of California is hereby authorized and empowered to accept the benefits of the act of congress approved July 17, 1914, entitled: "An act to provide for agricultural entry of lands withdrawn, classified, or reported as containing phosphate, nitrate, potash, oil, gas, or asphaltic minerals," and on behalf of the State of California, or of any assignee of the State of California, to accept and receive lists and patents to lands selected by the State of California as agricultural lands, which were subsequently withdrawn, classified or reported as being valuable for phosphate, nitrate, potash, oil, gas, or asphaltic minerals, and containing a reservation to the United States of all deposits on account of which the lands were withdrawn, classified, or reported as being valuable, together with the right to prospect for, mine and remove the same, as provided in said act of congress.

FEES OF COUNTY RECORDER.

An Act to amend section one thousand four hundred and twenty-six n of the Civil Code, relating to fees for recording affidavits of labor or improvements on Mining Claims.

(Chapter 448 laws of 1915. In effect August 8, 1915.)

Section 1. Section one thousand four hundred and twenty-six n of the Civil Code is hereby amended so as to read as follows:

1426n. For recording the affidavit herein required, the

county recorder shall receive a fee of ten cents per folio, twenty cents fo endorsement and ten cents for indexing the name of each claim and each owner.

OIL AND GAS SUPERVISOR.

An Act establishing and creating a department of the State mining bureau for the protection of the natural resources of petroleum and gas from waste and destruction through improper operations in production; providing for the appointment of a state oil and gas supervisor; prescribing his duties and powers; fixing his compensation; providing for the appointment of deputies and employees; providing for their duties and compensation; providing for the inspection of petroleum and gas wells; requiring all persons operating petroleum and gas wells to make certain reports; providing procedure for arbitration of departmental rulings; creating a fund for the purpose of the act; providing for assessment of charges to be paid by operators and providing for the collection thereof; and making an appropriation for the purposes of this act.

(Chapter 718. In effect August 9, 1915.)

This law can be found by those interested in the California Session Laws of 1915, page 1404. Too long for this book as it does not interest mining men generally.

NEVADA

AN ACT TO AMEND "AN ACT CREATING THE OFFICE OF INSPECTOR OF MINES, ETC."

(Approved Feb. 8, 1915. Chapter 8.)

Section 4201 of the Revised Laws of Nevada, is hereby amended to read as follows:

Section 4. It shall be the duty of the inspector of mines at least once a year, to visit in person each mining county in the State of Nevada and examine all such mines therein as, in his judgment, may require the examination for the purpose of determining the condition of such mines as to safety, and said inspector of mines shall post or cause to be posted, in a prominent place upon the gallows-frame or other superstructure at the collar of the main workings of such mine, a copy of his recommendations within twenty-four hours from the date of such examination, and it shall be the duty of the inspector of mines to collect information and statistics relative to mines and mining and the mineral resources of the state, and to collect, arrange, and classify mineral and geological specimens found in this state and to forward the same to the State school of mines, and it shall be the duty of the inspector of mines to establish a uniform code of signals.

DRINKING WATER.

An Act requiring that suitable drinking water, etc. * * be furnished in underground workings.

(Approved March 8, 1915. Chapter 73.)

Section 1. Every corporation, company, owner, or operator of a mine or underground workings in this state employing more than five men, shall, during working hours, provide suitable receptacles containing fresh, clean water for drinking purposes at places convenient to where men are employed in said underground workings. Said receptacles shall be supplied with a substantial cover which may be securely fastened or locked to prevent dust or dirt fro mentering therein, and shall be so made that the water shall be drawn from a valve or faucet.

Sec. 2. It shall be the duty of the state inspector of mines to enforce the provisions of this act.

Sec. 3. Any corporation, company, owner, or operator who fails, neglects, or refuses to obey the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

ASSESSMENT OF PATENTED MINES.

Chap. 206—An Act to provide for the assessment of patented mines, and to repeal all acts and parts of acts in conflict herewith.

(Approved March 24, 1915.)

Definition of Term "Patented Mine."

Section 1. The term "patented mine," where hereinafter used in this act, shall be taken and deemed to mean each separate, whole, or fractional patented mining location, whether such whole or fractional mining location be covered by an independent patent or be included under a single patent with other mining locations.

Patented Mines, Assessment of—Exception.

Sec. 2. Each patented mine shall be assessed at not less than five hundred ($500) dollars, except where one hundred ($100) dollars in labor has been actually performed upon such patented mine during the calendar year for which assessment is levied or where bond and statement of intent to perform such labor has been properly filed and approved as provided in section 5 of this act, in addition to the tax on the net proceeds.

Assessor to Assess All Patented Mines.

Sec. 3. The county assessor shall assess each patented mine in his county at not less than five hundred ($500) dollars and return the said assessment as is now required by law.

Board of Equalization to Strike from Rolls, When.

Sec. 4. At the next succeeding session of the county board of equalization, or of any state board or commission now in existence, or that may hereafter be created by law for the purpose of equalizing property values, the owner of any such patented mine may appear before either of said boards in person or by an agent or attorney, and on presenting to either of said boards an affidavit that at least one hundred ($100) dollars in labor has been actually performed upon said patented mine during the calendar year for which assessment is levied, the board to whom presentation is made shall strike from the roll the assessment against the patented mine named in such affidavit.

May File Declaration of Intent to Perform Labor.

Sec. 5. The owner or controller of patented mines on which one hundred ($100) dollars in labor has not been performed at the time of the meeting of the county board, or any duly authorized state board or commission, may declare by properly

executed affidavit to either of such boards his intention of performing such labor before the expiration of the then current calendar year; and upon filing such affidavit, together with a good and sufficient bond in the sum of one hundred ($100) dollars for each patented mine to which the declaration of intent is applied (which bond must be acceptable to and approved by the county board of equalization, or any duly authorized state board or commission, as the case may be), the board than sitting may order such patented mine or mines stricken from the roll.

To File Proof of Labor After Declaration of Intent.

Sec. 6. The owner or controller of patented mines in favor of which bond and declaration of intent has been filed in accordance with the preceding section shall, on or before the tenth day of January of the next year succeeding the calendar year for which assessment has been levied, file with the board with which bond and declaration of intent was originally filed, an affidavit that at least one hundred ($100) in labor has been actually performed upon each patented mine covered by such bond and declaration of intent during the calendar year for which assessment was levied. Upon the filing of such affidavit of labor the bondsmen shall be released. Upon the refusal or neglect to file such affidavit within the time limit prescribed by this section, the county board of equalization, or the state board or commission, as the case may be, shall declare the bond forfeited and may proceed to collect the full amount thereof in an action at law, which action shall be prosecuted by the district attorney or attorney-general.

Affidavit of Labor Required—Form.

Sec. 7. The affidavit of labor required by this act shall particularly describe the work performed, and upon what portion of said mine, and when and by whom done, and may be substantially in the following form:

State of Nevada, County of....., ss.

....., being first duly sworn, on oath deposes and says: That at least one hundred ($100) dollars worth of work or labor was performed up the..... patented mine....., situated in the..... .....mining district, county of....., State of Nevada, during the calendar year 19..... Such labor was done at the expense of....., the owner (or one of the owners) of said patented mine, for the purpose of relieving the same from the assessment. Said labor was performed by.....at about.....feet in a .....direction from the location monument, and was done between the.....day of....., 19..., and the.....day of....., 19..., and con-

sisted of the following work:.....

Subscribed and sworn to before me this.....day of ....., A. D. 19....

.....Notary Public.

(Or other officer authorized to administer oaths.)

Affidavit Made by Owner or Agent.

Sec. 8. Such affidavit may be made by the owner or agent of the owner, or person performing the labor, or by any person familiar with the facts, on behalf of the owner.

Contiguous Mines.

Sec. 9. The owner of two or more contiguous patented mines may perform all work required by article X of the constitution of this state upon one mine only; provided, the aggregate amount of such work shall be equal to one hundred ($100) dollars for each of such contiguous patented mines.

Affidavit Filed.

Sec. 10. All such affidavits shall be filed and retained in the office of the county clerk.

One Affidavit May Include Several Properties.

Sec. 11. A single affidavit may be filed for the labor on several patented mines belonging to the same person or held in common ownership, provided all are located in the same county.

Repealing Section.

Sec. 12. An act entitled "An act supplemental to an act entitled 'An act to provide revenue for the support of the government of the State of Nevada, and to repeal certain acts relating thereto, approved March 23, 1891,'" approved March 12, 1913, and all other acts and parts of acts in conflict herewith, are hereby repealed.

MINERAL LAND COMMISSIONER.

An Act to amend Sec. five of an Act entitled "An Act creating the office of Mineral Land Commissioner etc."

(Approved March 24, 1915. Chapter 213.)

Section 5. The Mineral land commissioner may appoint as many deputies as he may deem necessary for the carrying out of the provisions of this act. All fees or charges of such deputies shall be paid out of the salary herein provided for the mineral land commissioner. The mineral land commissioner shall receive a salary of fourteen hundred dollars per annum, payable in equal monthly installments, the same as the salaries of other officers of the state are paid, and the state controller is hereby authorized to draw his warrant and the state treasurer is hereby directed to pay the same out of any money not otherwise then especially appropriated. The state mineral land commissioner shall make no charge nor shall he receive any other fees than the salary herein provided.

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United States, Arizona, California, Oregon, Nevada and Utah

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TO ATTORNEYS

I would advise you that I have in my office a complete set of Arizona Statutes, decisions and forms which you are welcome to use at any time.

I have associates, mostly attorneys, who can act as agents for corporations, in all the principal towns of Arizona, and I can thus quickly and carefully assist you to incorporate. Correspondence with attorneys on Arizona practice will be cheerfully answered to assist them in their business. I was for many years District Attorney in Arizona and have been in this line of business for 20 years. You can save yourself a great deal of trouble and possible error by handing or sending your original articles (and two copies) to me, and my associate in Arizona will attend to filing and publishing and return all papers to you promptly.

We are also prepared to hold stockholders' meetings anywhere in Arizona by proxy when desired.

If you have occasion to associate counsel with you in any mining litigation in Arizona, I would have you know that either my father, Gen. Thos. F. Wilson, or myself attend terms of Court in Phoenix (Maricopa County), Yuma (Yuma County), Nogales (Santa Cruz County), Florence (Pinal County), Tombstone (Cochise County), and Tucson (Pima County). We have had from fifteen to twenty years' experience in mining litigation in Arizona.

We can also assist you to obtain patents to mining claims or agricultural entries either through the local U. S. Land Offices at Phoenix, Arizona, or Los Angeles, California, or the Departments in Washington.

Gen. Thos. F. Wilson resides at Tucson, Arizona, where he was United States Attorney. We will be glad to be associated in any class of general law business you may have in Arizona.

CALVERT WILSON,
Attorney at Law,
Los Angeles, California.

340 Wilcox Bldg. Home Phone A 1851. Sunset Main 4665.

SUMMARY OF

UNITED STATES LAWS

All mineral lands are open to occupation and purchase by any citizen, or he who has declared his intention to become a citizen of the United States.

A mining claim located since May 10, 1872, shall not exceed fifteen hundred feet in length along the vein or lode and three hundred feet on each side of the middle of the vein at the surface.

The locator of a mining claim has the exclusive right of possession and enjoyment of all of the surface of his claim and of all veins, lodes or ledges throughout their entire depth, the top or apex of which lies inside his surface lines extended vertically downwards. The owner of a mining claim may follow his ledge should its dip carry him beyond his side lines extended vertically down, so long as he does not trespass on the surface of another claim; but in no case can he go beyond his end lines, which must in all cases be parallel.

No lode claim can be recorded until a vein or lode has been discovered thereon.

Where two claims cross each other the prior location is entitled to all the ore or mineral within the space of intersection, but the subsequent location has a right of way through the space of intersection for the working of the mine, and where two or more veins unite the oldest location takes the vein below the point of union, including all the space of intersection.

A PATENT can be obtained on a mining claim after $500 has been expended thereon for development or improvement, upon its being surveyed by a United States mineral surveyor, and by the payment of $5 per acre for the land to the United States Government.

TO HOLD AN UNPATENTED MINING CLAIM, not less than $100 worth of labor shall be performed or improvements made thereon each year, subject to the local laws of the State or rules of the mining district. Where several claims are held in common and are contiguous, the whole expenditure may be made on any one claim. The period within which this work is required to be done begins on the first day of January of the year succeeding the year of location.

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Mining Laws of the United States

Title XXXII, Chapter 6, Revised Statutes.

Sec. 2318. In all cases lands valuable for minerals shall be reserved from sale, except as otherwise expressly directed by law. 132 Cal. 115, 113 Pacif. 754, 154 Cal. 768, 221 U. S. 452.

Sec. 2319. All valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

As to Aliens—152 U. S. 505. As to Location by Agent—109 Cal. 122. As to Locations on Townsite—115 U. S. 406. Private Corp. can Locate—137 U. S. 168. A Minor can Locate, 72 Cal. 531. Also see 171 U. S. 55; 173 U. S. 439; 175 U. S. 571; 133 Cal. 634; 181 U. S. 519; 183 U. S. 563; 133 Fed. 209; 154 Cal. 768; 10 Cal. App. 440; 149 Cal. 603; 30 Mont. 562.

Sec. 2320. Mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining claim located after the tenth day of May, eighteen hundred and seventy-two, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing on the tenth day of May, eighteen hundred and seventy-two, render such limitation necessary. The end lines of each claim shall be parallel to each other.

Meaning of Vein, Lode and Ledge—17 Utah 185; 73 Cal. 114; 116 U. S. 529; 167 U. S. 115; 122 U. S. 484; 37 Mont. 138; 29 Utah 490; 43 L. D. 79.

Discovery—152 U. S. 227; 134 Cal. 585; 94 F. R. 600; 177 U. S. 505; 93 F. R. 612; 167 U. S. 115; 5 F. R. 172; 17 Utah 185; 14 Cal. App. 60; 113 Pac. 162; 196 U. S. 337.

Willing to Develop—82 Fed; 37 Oregon 185; 29 Utah 490; 197 U. S. 313.

Length and Width of Location—18 Col. 524; 5 F. R. 172.

What is Mining Claim—104 U. S. 284.

Surface Lines—171 U. S. 75; 122 U. S. 484; 104 F. R. 664; 118 U. S. 196; 171 U. S. 293.

Overlapping Claims—171 U. S. 75; 171 U. S. 83. Gen. 115 U. S. 45; 104 U. S. 279; 94 U. S. 762; 170 Fed. 63.

Sec. 2321. Proof of citizenship, under this chapter, may consist, in the case of an individual, of his own affidavit thereof; in the case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge, or upon information and belief; and in the case of a corporation organized under the laws of the United States, or of any state or territory thereof, by the filing of a certified copy of their charter or certificate of incorporation. 11 F. R. 125; 130 U. S. 299; 72 Cal. 531.

Supplemented by an act of April 26th, 1882, which provides as follows:

"That applicants for mineral patents, if residing beyond the limits of the district wherein the claim is situated, may make any oath or affidavit required for proof of citizenship before the clerk of any court of record, or before any notary public of any state or territory." 22 Stats. at Large, p. 49, chap. 106.

38 Wash. 619; 36 Colo. 122.

Sec. 2322. The locators of all mining locations heretofore made or which shall hereafter be made, on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claims exist on the tenth day of May, eighteen hundred and seventy-two, so long as they comply with the laws of the United States, and with State, Territorial and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of such surface locations. But their right of possession to such outside parts of such veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as above described through the end lines of their locations, so continued in their

own direction that such planes will intersect such exterior parts of such veins or ledges. And nothing in this section shall authorize the locator or possessor of a vein, or lode which extends in its downward course beyond the vertical lines of his claim, to enter upon the surface of a claim owned or possessed by another.

11 Pac. 77; 11 Pac. 515; 98 U. S. 463; 118 U. S. 196; 116 U. S. 529; 116 U. S. 418; 98 U. S. 453; 29 F. R. 347; 3 Utah 159; 128 U. S. 680; 122 U. S. 478; 114 U. S. 576; 29 F. R. 814; 16 F. R. 348; 171 U. S. 55; 171 U. S. 293; 113 F. R. 900. Right of Possession—104 U. S. 284; 152 U. S. 229; 182 Fed. 675; 85 Pac. 932; 157 Cal. 126; 167 Fed. 681.

Sec. 2323. Where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid, but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of such tunnel.

4 Cal. 507; 127 U. S. 481; 182 U. S. 500; 167 U. S. 116; 143 U. S. 405.

Sec. 2324. The miners of each mining district may make regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the tenth day of May, eighteen hundred and seventy-two, and until a patent has been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year.

On all claims located prior to the tenth day of May, eighteen hundred and seventy-two, ten dollars' worth of labor shall be performed or improvements made by the tenth day of June, eighteen hundred and seventy-four, and each year thereafter,

for each one hundred feet in length along the vein, until a patent has been issued therefor; but where such claims are held in common, such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after failure and before such location.

Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required hereby, the co-owners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent co-owner personal notice in writing or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or by publication such delinquent should fail or refuse to contribute his proportion of the expenditure required by this section, his interest in the claim shall become the property of his co-owners who have made the required expenditures.

Tunnel Amendment, February 11, 1875.

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, that section two thousand, three hundred and twenty-four of the Revised Statutes be, and the same is hereby, amended so that where a person or company has or may run a tunnel for the purpose of developing a lode or lodes, owned by said person or company, the money so expended in said tunnel shall be taken and considered as expended on said lode or lodes, whether located prior to or since the passage of said act; and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same as required by said act. (18 Stats. at Large, page 315, chap. 41.)

Amendment of January 22, 1880.

"Provided, That the period within which the work required to be done annually on all unpatented mineral claims shall commence on the first day of January succeeding the date of location of such claim, and this section shall apply to all claims located since the tenth day of May, Anno Domini eighteen hundred and seventy-two." (21 Stats. at Large, page 61, chap. 9.)

Marking Location—53 Cal. 149; 59 Cal. 614; 119 Fed. 55; 152 U. S. 227; 116 U. S. 418; 113 Cal. 550; 158 U. S. 441; 130 U. S. 291; 14 Cal. App. 60; 48 Ore. 112.

Time to Mark Boundaries—93 Fed. 611; 115 F. R. 531; 129 Cal. 483; 137 Cal. 211.

Permanent Monument—158 U. S. 441; 137 Cal. 212; 130 U. S. 291; 67 Pac. 955; 129 Cal. 436.

Notice of Location—129 Cal. 350; 123 F. R. 209; 160 U. S. 318; 25 F. R. 596; 113 U. S. 534; 111 U. S. 356; 183 U S. 563; 134 F. R. 610; 40 Mont. 282; 207 U. S. 1.

One Hundred Dollars Labor—125 F. R. 147; 97 F. R. 386; 27 Cal. 501; 127 F. R. 611; 132 Cal. 56; 111 U. S. 353. On one for more—109 U. S. 440; 114 Cal. 100; 30 Cal. 431; 104 U. S. 636; 145 U. S. 428; 11 F. R. 677; 24 Mont. 243; 11 Utah 328; 75 Pac. 919; 133 Cal. 510; 130 U. S. 292; 65 Cal. 555; 158 Fed. 667; 164 Fed. 397; 15 Cal. App. 714.

Forfeiture to Co-owner—194 U. S. 248; 150 U. S. 585; 17 Colo. 243; 173 Fed. 895; 177 Fed. 172.

Recording Notice—129 Cal. 361; 144 U. S. 658; 117 U. S. 401; 16 Utah 103; 99 U. S. 261; 29 F. R. 814.

Relocation—65 Cal. 605; 171 U. S. 77; 129 Cal. 350; 58 F. R. 295; 24 Utah 73; 104 U. S. 279; 82 F. R. 554; 65 Cal. 555; 181 U. S. 269; 18 Utah 183; 75 Cal. 284; 134 F. R. 610; 13 Ariz. 331; 96 Pac. 679.

Generally—60 Cal. 631; 175 U. S. 571; 17 Cal. 107; 14 Cal. App. 60.

Sec. 2325. (Patents for Mineral Lands, how obtained). A patent for any land claimed and located for valuable deposits may be obtained in the following manner: Any person, association, or corporation authorized to locate a claim under this chapter, having claimed and located a piece of land for such purposes, who has, or have complied with the terms of this chapter, may file in the proper land office an application for a patent, under oath, showing such compliance, together with a plat and field notes of the claim or claims in common, made by or under the direction of the United States surveyor-general, showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted, and shall file a copy of the notice in such land office, and shall thereupon be entitled to a patent for the land, in the manner following: The register of the land office, upon the filing of such application, plat, field-notes, notices and affidavits, shall publish a notice that such application has been made, for the period of sixty days, in a newspaper to be by him designated as published nearest to such claim; and he shall also post such notice in his office for the same period. The claimant at the time of filing this application, or at any time thereafter within the sixty days of publication, shall file with the register a certificate of the United States surveyor-general that five hundred dollars' worth of labor has been expended or improvements made upon the claim

by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description, to be incorporated in the patent. At the expiration of the sixty days of publication the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during such period of publication. If no adverse claim shall have been filed with the register and the receiver of the proper land office at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent; upon the payment to the proper officer of five dollars per acre, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with the terms of this chapter. Provided, That where the claimant for a patent is not a resident of or within the land district wherein the vein, lode, ledge or deposit sought to be patented is located, the application for patent and the affidavits required to be made in this section by the claimant for such patent may be made by his, her, or its authorized agent, where said agent is conversant with the facts sought to be established by said affidavit. And, Provided, That this section shall apply to all applications now pending for patents to mineral lands. (R. S.)

24 Nev. 273; 74 Pac. 518; 135 U. S. 298; 33 F. R. 562; 150 U. S. 587; 85 F. R. 485; 21 F. R. 695; 194 U. S. 233; 82 F. R. 697; 119 U. S. 167; 167 U. S. 115.

Fraud—128 U. S. 676.

Generally on this Section—171 U. S. 56; 177 U. S. 505; 188 U. S. 184; 13 Ariz. 42; 173 Fed. 895; 43 L. D. 128.

Sec. 910. No possessory action between persons in any court of the United States for the recovery of any mining title or for damages to any such title shall be affected by the fact that the paramount title to the land in which such mines lie is in the United States; but each case shall be adjudged by the law of possession.

104 U. S. 283; 85 F. R. 486; 122 F. R. 784; 92 F. R. 230; 53 F. R. 321; 117 Cal. 489; 24 Or. 265.

Sec. 2326. (Adverse claim, proceedings on.) Where an adverse claim is filed during the period of publication, it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of

possession, and prosecute the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment-roll with the register of the land office, together with the certificate of the surveyor-general that the requisite amount of labor has been expended or improvements made thereon, and the description required in other cases, and shall pay to the receiver five dollars per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment-roll shall be certified by the register to the commissioner of the general land office, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, to rightly possess. If it appears from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the surveyor-general, whereupon the register shall certify the proceedings and judgment-roll to the commissioner of the general land office, as in the preceding case, and patents shall issue to the several parties according to their respective rights. Nothing herein contained shall be construed to prevent the alienation of the title conveyed by a patent for a mining-claim to any person whatever. (R. S.)

180 U. S. 534; 177 U. S. 534; 175 U. S. 579; 177 U. S. 513; 157 U. S. 694; 114 Cal. 100; 114 U. S. 585; 119 U. S. 485; 163 U. S. 165; 123 F. R. 936; 67 Pac. 724; 95 F. R. 213; 83 Cal. 300; 129 Cal. 480; 119 U. S. 485; 109 U. S. 440; 107 U. S. 401; 57 Pac. 641; 111 U. S. 350; 13 Ariz. 42; 14 Cal. App. 642; 102 Pac. 1072; 17 Idaho 321.

(Act of March 3, 1881, ch. 140, 21 Stat. L. 505.)

(Findings by Jury—Costs.) That, if in any action brought pursuant to section twenty-three hundred and twenty-six of the Revised Statutes, title to the ground in controversy shall not be established by either party, the jury shall so find, and judgment shall be entered according to the verdict. In such case costs shall not be allowed to either party, and the claimant shall not proceed in the land-office or be entitled to a patent for the ground in controversy until he shall have perfected his title.

(Act of April 26, 1882, ch. 106, 22 Stat. L. 49.)

Sec. 1. **(Oath of Claimant, Before Whom Made.)** That the adverse claim required by section twenty-three hundred and twenty-six of the Revised Statutes may be verified by the oath of any duly-authorized agent or attorney-in-fact of the adverse claimant cognizant of the facts stated; and the adverse claimant, if residing or at the time being beyond the lim-

its of the district, wherein the claim is situated, may make oath to the adverse claim before the clerk of any court of record of the United States or of the state or territory where the adverse claimant may then be, or before any notary public of such state or territory.

Sec. 2. That applicants for mineral patents, if residing beyond the limits of the district wherein the claim is situated, may make any oath or affidavit required for proof of citizenship before the clerk of any court of record, or before any notary public of any State or Territory.

Sec. 2327. The description of vein or lode claims, upon surveyed lands, shall designate the location of the claim with reference to the lines of the public surveys, but need not conform therewith; but where patents have been or shall be issued for claims upon unsurveyed lands, the surveyors-general, in extending the public survey, shall adjust the same to the boundaries of said patented claims so as in no case to interfere with or change the true location of such claims as they are officially established upon the ground. Where patents have issued for mineral lands, those lands only shall be segregated and shall be deemed to be patented which are bounded by the lines actually marked, defined, and established upon the ground by the monuments of the official survey upon which the patent grant is based, and surveyors-general in executing subsequent patent surveys, whether upon surveyed or unsurveyed lands, shall be governed accordingly. The said monuments shall at all times constitute the highest authority as to what land is patented, and in case of any conflict between the said monuments of such patented claims and the descriptions of said claims in the patents issued therefor the monuments on the ground shall govern, and erroneous or inconsistent descriptions or calls in the patent descriptions shall give way thereto.

Sec. 2328. Concerns applications for patents, pending prior to May, 1872.

Sec. 2329. Claims usually called "placers" including all forms of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and patent, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims; but where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands.

See Gould & T. 3, 441.

128 U. S. 679; 196 U. S. 119; 65 Cal. 40; 78 Cal. 595; 134 Cal. 350; 13 Ariz. 331; 112 Pac. 172; 201 Fed. 830.

What Can Be Located As Placer. (See, also, citations 2330). Stone, oil, salt springs, granite quarries, marble.

Clay, and Pumice or Volcanic Ash (Silica)—See 41 L. D. 584.

(Act of August 4, 1892, ch. 375, 27 Stat. L. 348.)

Sec. 1. (Entry of building stone lands under placer claims laws.) That any person authorized to enter lands under the mining laws of the United States may enter lands that are chiefly valuable for building stone under the provisions of the law in relation to placer mineral claims, Provided, That lands reserved for the benefit of the public schools or donated to any state shall not be subject to entry under this act. (27 Stat. L. 348.)

(Note—See case of Stanislaus Elec. Power Co., 41 L.D. 655.)

An Act extending the mining laws to saline lands.

(Act of January 31, 1901, ch. 186, 31 Stat. L. 745.)

(Entry of Saline Lands Under Placer Claims Laws.) That all unoccupied public lands of the United States containing salt springs, or deposits of salt in any form, and chiefly valuable therefor, are hereby declared to be subject to location and purchase under the provisions of the law relating to placer mining claims. Provided, That the same person shall not locate or enter more than one claim hereunder. (31 Stat. L. 745.)

Sec. 2330. Legal subdivisions of forty acres may be subdivided into ten-acre tracts, and two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof; but no location of a placer claim, made after the ninth day of July, eighteen hundred and seventy, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide preemption or homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona fide settler to any purchaser.

104 U. S. 636; 4 Sawyer 28; 104 U. S. 653; 140 Cal. 440; 14 Mont. 88; 171 Fed. 825; 177 Fed. 95; 187 Fed. 385; 47 Colo. 263.

Sec. 2331. Where placer claims are upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer mining claims located after the tenth day of May, eighteen hundred and seventy-two, shall conform as near as practicable with the United States system of public lands surveys, and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant; but where placer claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by the segregation of mineral land in any legal subdivision a quantity of agricultural land less than forty acres remains, such frac-

tional portion of agricultural land may be entered by any party qualified by law, for homestead or preemption purposes.

84 Cal. 415; 94 F. R. 383; 78 Cal. 596; 40 L. D. 401.

(Note—A corporation, regardless of number of its stockholders, may locate only 20 acres of placer ground, the same as one individual. See case of Stanislaus Elec. Power Co., 41 L. D. 655, decided Sept. 4, 1912.)

Sec. 2332. (What evidence of possession, etc., to establish a right to a patent.) Where such person or association, they and their grantors, have held and worked their claims for a period equal to the time prescribed by the statute of limitations for mining claims of the state or territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under this chapter, in the absence of any adverse claim; but nothing in this chapter shall be deemed to impair any lien which may have attached in any way whatever to any mining claim or property thereto attached prior to the issuance of a patent.

127 U. S. 348; 104 U. S. 279; 28 Colo. 364; 114 Cal. 105; 26 Utah 1; 83 Cal. 296.

Sec. 2333. Where the same person, association, or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case a patent shall issue for the placer claim, subject to the provisions of this chapter, including such vein or lode upon the payment of five dollars per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of two dollars and fifty cents per acre, together with all costs of proceedings; and where a vein or lode, such as is described in section twenty-three hundred and twenty, is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof. See G. & T. 3, 441; 116 U. S. 687-696; 124 U. S. 348; 109 U. S. 550; 128 U. S. 673; 100 U. S. 37; 132 U. S. 262; 127 U. S. 353; 124 U. S. 383; 143 U. S. 400; 134 Cal. 350; 135 U. S. 292; 75 Pac. 420; 149 Cal. 603; 158 Cal. 559; 157 Fed. 203.

LOCATION OF OIL AND GAS CLAIMS.

These are placer claims. See sections 2329 to 2333 U. S. Statutes, page 12.

An Act authorizing entry of petroleum or other mineral oil lands under placer claim laws.

That any person authorized to enter lands under the mining laws of the United States may enter and obtain patents to lands containing petroleum or other mineral oils, and chiefly valuable therefor, under the provisions of the laws relating to placer mineral claims. Provided, That lands containing such petroleum or other mineral oils which have heretofore been filed upon, claimed, or improved as mineral, but not yet patented, may be held and patended under the provisions of this Act the same as if such filing, claim or improvement were subsequent to the date of the passage hereof. (29 Stat. L. 526.) Approved Feb. 11, 1897.

An Act defining what shall constitute Assessments on Oil Mining Claims. (Act of February 12, 1903, ch. 548, 32 Stat. L. 825.)

(Assessments required for Oil Mining Claims.) That where oil lands are located under the provisions of title thirty-two, chapter six, Revised Statutes of the United States, as placer mining claims, the annual assessment labor upon such claims may be done upon any one of a group of claims lying contiguous and owned by the same person or corporation, not exceeding five claims in all: **Provided,** That said labor will tend to the development or to determine the oil-bearing character of such contiguous claims.

An Act to authorize the President of the United States to make withdrawals of public lands in certain cases.

(Known as Pickett Bill.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President may, at any time in his discretion, temporarily withdraw from settlement, location, sale, or entry any of the public lands of the United States including the District of Alaska and reserve the same for water-power sites, irrigation, classification of lands, or other public purposes to be specified in the orders of withdrawals, and such withdrawals or reservations shall remain in force until revoked by him or by an Act of Congress.

Sec. 2. That all lands withdrawn under the provisions of this Act shall at all times be open to exploration, discovery, occupation, and purchase, under the mining laws of the United States, so far as the same apply to minerals other than coal, oil, gas, and phosphates: **Provided,** That the rights of any person who, at the date of any order of withdrawal hertofore or hereafter made, is a bona fide occupant or claimant of oil

or gas bearing lands, and who, at such date, is in diligent prosecution of work leading to discovery of oil or gas, shall not be affected or impaired by such order, so long as such occupant or claimant shall continue in diligent prosecution of said work: **And provided further,** That this Act shall not be construed as a recognition, abridgment, or enlargement of any asserted rights or claims initiated upon any oil or gas bearing lands after any withdrawal of such lands made prior to the passage of this Act: **And provided further,** That there shall be excepted from the force and effect of any withdrawal made under the provisions of this Act all lands which are, on the date of such withdrawal, embraced in any lawful homestead or desert-land entry theretofore made, or upon which any valid settlement has been made and is at said date being maintained and perfected pursuant to law; but the terms of this proviso shall not continue to apply to any particular tract of land unless the entryman or settler shall continue to comply with the law under which the entry or settlement was made: **And provided further,** That hereafter no forest reserve shall be created, nor shall any additions be made to one heretofore created within the limits of the States of Oregon, Washington, Idaho, Montana, Colorado, or Wyoming, except by Act of Congress.

Sec. 3. That the Secretary of the Interior shall report all such withdrawals to Congress at the beginning of its next regular session after the date of the withdrawals.

Approved, June 25, 1910.

Case of Bakersfield Fuel and Oil Co.

(Decided January 19, 1911. See also black type, page 18.)

Placer Location—Oil Lands—Transferee.

A placer location of oil lands for 160 acres, made by eight persons and subsequently transferred to a single individual, invalid because not preceded by discovery, can not be perfected by the transferee upon a subsequent discovery to the full area so located, but only as to twenty acres thereof.

Corporation—Regarded as Entity in Acquiring Public Lands.

A corporation in acquiring title under the public land laws must be regarded as an entity, with no greater right than an individual.

Discovery—Prerequisite to Initiation of Title.

Discovery of mineral is an essential prerequisite to initiation of title under the mining laws.

Discovery Subsequent to Location—Doctrine of Relation.

While discovery of mineral subsequent to location of a mining claim is sometimes held by the land department to relate back to the date of location, where there was no precedent discovery, the doctrine of relation can not be invoked to the disadvantage of intervening adverse claims nor to permit any one

to secure more land by indirect means than may be done directly.

Pierce, First Assistant Secretary of Interior rendering decision:

The Bakersfield Fuel and Oil Company, a corporation organized and existing under the laws of the State of California, appellant herein, applied for a patent to the Pitney No. 2 oil placer claim, containing 160 acres, situate in the Visalia, California, land district. The Commissioner of the General Land Office held that the company could secure patent to only 20 acres and required it to elect which 20 acres it would take and to cast off the excess of 140 acres, basing his decision on the Yard Case (38 L. D., 59). The company has appealed to the Department.

On the 22nd day of June, 1899, eight persons attempted to locate said 160 acres of land as a single oil placer mining claim. No discovery of oil or other mineral had been made. During the month of August, 1899, and before discovery, all of said eight persons conveyed their so-called claim to the appellant company which sunk a well on the claim and actually discovered oil in paying and commercial quantities on the 25th day of September, 1900, at a depth of 1207 feet. No oil or other mineral was discovered in the claim prior thereto.

The case has been exhaustively and ably argued by eminent counsel, and carefully prepared briefs have been filed. The law of the case is within narrow limits and was clearly announced in the Yard Case, **supra,** that a placer location of 160 acres, made by eight persons and subsequently transferred to a single individual before discovery, can not be perfected by the transferee upon a subsequent discovery to over 20 acres. While the Yard Case involved placer locations for gold and other precious minerals, it can not be distinguished from the case at bar. The placer law was applied to oil lands by act of Congress on February 11, 1897 (29 Stat. L., 526). The Act of May 10, 1872, carried into the Revised Statutes as Sec. 2331, declares that no placer location shall include more than 20 acres for each individual claimant. This is a limitation upon the size of an individual claim. The Department has frequently held that a corporation in acquiring public lands is a single entity and has no greater right than an individual. (Igo Bridge Extension Placer, 38 L. D., 281, and other cases).

Discovery of mineral is the one absolutely necessary prerequisite to the initiation of title to mineral lands on the public domain. Until discovery is made the so-called locators hold their possession by sufferance and not by right; until discovery is made they acquire no interest in the public domain and have nothing to convey. But it is pressed upon our attention that locations are frequently made without discovery of mineral and that upon discovery the claims relate back to date of location. It is true that the Department often recognizes the val-

idity of such locations by relation, but the doctrine of relation has never been invoked to the disadvantage of intervening adverse claimants, nor to permit any one to secure more land in an indirect method than he could directly.

Appellant relies upon the case of Miller v. Chrisman (140 Cal., 140), in which the Supreme Court of California clearly decided adverse to the doctrine of the Yard Case. While the Department has great respect for the decisions of the state courts, it does not feel bound to follow them at all times. The case of Miller v. Chrisman was carried to the Supreme Court of the United States and there affirmed (197 U. S., 313). A careful and critical examination of the opinion of the Supreme Court of the United States convinces the Department that that court did not intend to and did not adopt the doctrine laid down by the Supreme Court of California. There is no suggestion in the opinion that would warrant any such conclusion. It turned upon another point, that the intervener had not made such a discovery as would entitle him to protection. We do not regard it as an authority in the case at bar.

It is pressed upon our attention that the method pursued by the appellant in its attempt to acquire patent to public oil land has been the common method in use in California for many years and that many patents have been issued under similar circumstances. This is the first time the question has been presented to the Department for decision. Whenever a new question is presented it must be decided upon the law, and if the interpretation of the law works disadvantageously or inequitably relief should be secured through Congress; and in view of the situation existing the Department has already called the attention of Congress to the facts and recommended remedial legislation in favor of those bona fide locators who have diligently prosecuted their work to fruition. The decision is affirmed.

An Act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in no case shall patent be denied to or for any lands heretofore located or claimed under the mining laws of the United States containing petroleum, mineral oil, or gas solely, because of any transfer or assignment thereof or of any interest or interests therein by the original locator or locators, or any of them, to any qualified persons or person, or corporation, prior to discovery of oil or gas therein, but if such claim is in all other respects valid and regular, patent therefor not exceeding one hundred and sixty acres in any one claim shall issue to the holder or holders thereof, as in other cases: **Provided, however,**

That such lands were not at the time of inception of development on or under such claim withdrawn from mineral entry.

Approved, March 2, 1911.

(Corporation can locate only 20 acres same as one individual. See 40 L. D. 401; 41 L. D. 655.)

Sec. 2334. (Surveyor-general to appoint surveyors of mining claims, etc.) The surveyor-general of the United States may appoint in each land district containing mineral lands as many competent surveyors as shall apply for appointment to survey mining claims. The expenses of the survey of vein or lode claims, and the survey and subdivision of placer claims into smaller quantities than one hundred and sixty acres, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The commissioner of the general land office shall also have power to establish the maximum charges for surveys and publication of notices under this chapter; and, in case of excessive charges for publication, he may designate any newspaper published in a land-district where mines are situated for the publication of mining-notices in such district, and fix the rates to be charged by such paper; and, to the end that the commissioner may be fully informed on the subject, each applicant shall file with the register a sworn statement of all charges and fees paid by such applicant for publication and surveys, together with all fees and money paid the register and receiver of the land office, which statement shall be transmitted, with the other papers in the case, to the commissioner of the general land office. (R. S.)

Sec. 2335. **(Verification of Affidavits, etc.)** All affidavits required to be made under this chapter may be verified before any officer authorized to administer oaths within the land-district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the register and receiver of the land office. In cases of contest as to the mineral or agricultural character of land, the testimony and proofs may be taken as herein provided on personal notice of at least ten days to the opposing party; or if such party cannot be found, then by publication of at least once a week for thirty days in a newspaper to be designated by the register of the land office as published nearest to the location of such land; and the register shall require proof that such notice has been given. (R. S.)

54 F. R. 252; 44 F. R. 800.

Sec. 2336. (Where Veins Intersect, etc.) Where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or

mineral contained within the space of intersection; but the subsequent location shall have the right of way through the space of intersection for the purpose of the convenient working of the mine. And where two or more veins unite, the oldest or prior location shall take the vein below the point of union, including all the space of intersection. (R. S.)

159 U. S. 658; 101 Cal. 358; 75 Cal. 78; 182 U. S. 505; 27 Colo. 16; 101 Cal. 361; 207 U. S. 1.

Sec. 2337. Where non-mineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such non-adjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location hereafter made of such non-adjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this chapter for the superficies of the lode. The owner of a quartz mill or reduction works, not owning a mine in connection therewith, may also receive a patent for his mill site, as provided in this section.

133 Cal. 637; 28 Colo. 367; 17 Nev. 460; 79 F. R. 890.

Sec. 2338. As a condition of sale, in the absence of necessary legislation by congress, the local legislature of any State or Territory may provide rules for working mines, involving easements, drainage and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

111 Cal. 577; 182 U. S. 500; 73 Cal. 484.

Sec. 2339. Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

101 U. S. 276; 174 U. S. 704; 188 U. S. 553; 175 U. S. 571; 50 Cal. 621; 26 Colo. 74; 133 Cal. 566; 39 Oregon 148; 98 U. S. 453.

Sec. 2340. All patents granted, or pre-emptions, or homesteads allowed, shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connec-

tion with such water rights, as may have been acquired under or recognized by the preceding section.

Sec. 2341. Concerns homesteads upon mineral lands.

Sec. 2342. (How Secretary of the Interior shall set apart mineral lands found to be agricultural.)

Sec. 2343. (Concerns establishment of land districts.)

Sec. 2346. Exempts mineral lands in grants to corporations for the construction of railroads.

MINING CLAIMS IN FOREST RESERVES.

The Congressional act of June 4th, 1897, provides as follows:

"It is not the purpose or intent of these provisions, or of the act providing for such reservations, to authorize the inclusion therein of lands more valuable for the mineral therein, or for agricultural purposes, than for forest purposes."

And in the same act it is provided:

"Nor shall anything herein prohibit any person from entering upon such forest reservations for all proper and lawful purposes, including that of prospecting, locating and developing the mineral resources thereof; provided, that such persons comply with the rules and regulations covering such forest reservations."

The act provides for the restoration to the public domain of tracts more valuable for mining or agricultural purposes, and then proceeds:

"And any mineral lands in any forest reservation which have been or may be shown to be such and subject to entry under the existing mining laws of the United States and the rules and regulations applying thereto, shall continue to be subject to such location and entry notwithstanding any provisions herein contained."

Under these statutes it is now held by the land department that the forest reserves are open to the location of mining claims. There can be no doubt of the meaning of congress upon this subject. Lands within forest reserves are subject to the operation of the mining laws.

MILL SITES.

See Section 2337 R. S. Ante. For Statutory provisions.

Mill sites are located by posting notice and staking by a substantial post or stake at each angle, which ordinary prudence would require to be inscribed with the name of the mill site and the number of the corner. There are no Congressional regulations of the details of such location, but their record should conform to the requirement applicable to the record of all classes of claims, to-wit, that it contain a sufficient description

by reference to natural objects or permanent monuments; which terms of the statute are no more than a statement of what is required as a matter of course without such statute. In other words, where any record whatsoever is essential to either original claim or conveyance, it must contain a description sufficient to identify the land intended to be described.

Post location notice at some conspicuous point on the claim, in substance as follows:

MILL SITE LOCATION NOTICE.

I claim the.....mill site (..... feet.....by.....feet.....) as staked on this ground. Date of location.....

(signature)

.....

And make record in the proper county of the

Location Certificate of Mill Site.

To all whom these presents may concern: Know ye that I, ...of....., do hereby declare and publish as a legal notice to all the world that I have a valid right to the occupation, possession and enjoyment of all and singular that tract or parcel of land, not exceeding five acres, situate, lying and being in the.....Mining district, in the County of....., in the State of ....., bounded and described as follows, to-wit: The .....mill site, beginning at corner. No one from which.....(description continued) to the place of beginning.

Together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Witness my hand and seal this.....day of..... in the year of our Lord one thousand nine hundred and.....

(signature) (seal)

.....

State of.....County of.....—ss.

Before me, the subscriber, a notary public in and for said county, personally appeared....., to me personally known to be the same person described in, and who executed the within Location Certificate of Mill Site, and acknowledged that he signed, sealed and published the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and notarial seal, this.....day of ....., 19.... My commission expires.....

.....

(Seal) Notary Public.

It is not absolutely necessary that the mill site should be named to comply with the law, but it would be found very inconvenient not to do so. The location of a mill site should be followed by occupancy or improvement. (10 Mining Reports 337.)

A plot of ground containing five acres is equal to 466.69x466.69 feet square. To hold land as a mill site it must be non-mineral, non-contiguous to the lode and must be actually used or kept by the owner for mining or milling purposes. It may be used for boarding houses for miners, for ore houses as well as for mining machinery.

The following uses will hold a mill site:

1. Building thereon a pumping plant to carry water to the mine.
2. Storing water thereon to use at the mine.
3. Using the land to store ore or tailings.
4. Placing boarding houses or shops thereon for workmen.
5. Use as a ware-house for storing tools.

A mill site can not be patented to obtain title to water claim or for the timber that is on it.

$500.00 labor on a lode claim is sufficient to patent both lode and mill site if mill site is actually used and occupied.

TIMBER.

An Act authorizing the citizens of Colorado, Nevada and the Territories to fell and remove timber on the public domain for mining and domestic purposes. Approved June 3, 1878. (20 Stat. L., 88.)

That all citizens of the United States and other persons, bona fide residents of the State of Colorado or Nevada, or either of the Territories of New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho or Montana, and all other mineral districts of the United States, shall be, and are hereby authorized and permitted to fell and remove, for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being on the public lands, said lands being mineral, and not subject to entry under existing laws of the United States, except for mineral entry, in either of said states, territories or districts of which such citizens or persons may be at the time bona fide residents, subject to such rules and regulations as the Secretary of the Interior may prescribe for the protection of the timber and of the undergrowth growing upon such lands, and for other purposes: **Provided,** the provisions of this act shall not extend to railroad corporations.

Sec. 2. (Provides that registers and receivers of land offices shall ascertain whether timber is being cut for other purposes than mentioned above.)

Sec. 3. (This section provides a penalty for violation of this act.)

MINING ON TOWN SITES.

An Act to repeal the timber culture laws, and for other purposes. Approved March 3, 1891. (26 Stat. L., 1095.) In this act may be found the following:

Sec. 16. That town site entries may be made by incorporated towns and cities on the mineral lands of the United States, but no title shall be acquired by such towns or cities to any vein of gold, silver, cinnabar, copper or lead, or to any valid mining claim or possession held under existing law. When mineral veins are possessed within the limits of an incorporated town or city, and such possession is recognized by local authority or by the laws of the United States, the title to town lots shall be subject to such recognized possession and the necessary use thereof, and when entry has been made or patent issued for such town sites to such incorporated town or city, the possessor of such mineral vein may enter and receive patent for such mineral vein, and the surface ground appertaining thereto: **Provided,** that no entry shall be made by such mineral-vein claimant for surface ground where the owner or occupier of the surface ground shall have had possession of the same before the inception of the title of the mineral-vein applicant.

COAL LANDS.

Sec. 2347. (Entry of Coal Lands.) Every person above the age of twenty-one years, who is a citizen of the United States, or who has declared his intention to become such, or any association of persons severally qualified as above, shall, upon application to the register of the proper land office, have the right to enter, by legal subdivisions, any quantity of vacant coal lands of the United States not otherwise appropriated or reserved by competent authority, not exceeding one hundred and sixty acres to such individual person, or three hundred and twenty acres to such association, upon payment to the receiver of not less than ten dollars per acre, for such lands, where the same shall be situated more than fifteen miles from any completed railroad, and not less than twenty dollars per acre for such lands as shall be within fifteen miles of such road. (R. S.)

123 U. S. 325; 137 U. S. 169.

Sec. 2348. (Pre-emption of Coal Lands.) Any person or association of persons severally qualified, as above provided, who have opened and improved, or shall hereafter open and improve, any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference-right of entry, under the preceding section, of the mines so opened and improved. Provided, That when any association of not less than four persons, severally qualified as

above provided, shall have expended not less than five thousand dollars in working and improving any such mine or mines, such association may enter not exceeding six hundred and forty acres, including such mining improvements. (R. S.)

Pre-emption Claims of Coal-Land to be Presented Within Sixty Days, etc.

Sec. 2349. All claims under the preceding section must be presented to the register of the proper land district within sixty days after the date of actual possession and the commencement of improvements on the land, by the filing of a declaratory statement therefor; but when the township plat is not on file at the date of such improvement, filing must be made within sixty days from the receipt of such plat at the district office; and where the improvements shall have been made prior to the expiration of three months from the third day of March, eighteen hundred and seventy-three, sixty days from the expiration of such three months shall be allowed for the filing of a declaratory statement, and no sale under the provisions of this section shall be allowed until the expiration of six months from the third day of March, eighteen hundred and seventy-three. (R. S.)

123 U. S. 313.

Only One Entry Allowed.

Sec. 2350. The three preceding sections shall be held to authorize only one entry by the same person or association of persons; and no association of persons, any member of which shall have taken the benefit of such sections, either as an individual or as a member of any other association, shall enter or hold any other lands under the provisions thereof; and no member of any association which shall have taken the benefit of such sections shall enter or hold any other lands under their provisions; and all persons claiming under section twenty-three hundred and forty-eight shall be required to prove their respective rights and pay for the lands filed upon within one year from the time prescribed for filing their respective claims; and upon failure to file the proper notice, or to pay for the land within the required period, the same shall be subject to entry by any other qualified applicant. (R. S.)

Conflicting Claims.

Sec. 2351. In case of conflicting claims upon coal-lands, where the improvements shall be commenced, after the third day of March, eighteen hundred and seventy-three, priority of possession and improvement, followed by proper filing and continued good faith, shall determine the preference-right to purchase. And also where improvements have already been made prior to the third day of March, eighteen hundred and seventy-three, division of the land claimed may be made by legal subdivisions, to include, as near as may be, the valuable

improvements of the respective parties. The commissioner of the general land office is authorized to issue all needful rules and regulations for carrying into effect the provisions of this and the four preceding sections.

80 F. R. 429; 44 F. R. 800.

An Act to Provide for Agricultural Entries on Coal Lands.

This Act provides that entries may be made on public lands containing coal, except Alaska, under homestead laws, desert land laws, Carey Act, etc., with reservation of the coal by the United States and that the coal may be prospected for and removed under directions and rules made by the Secretary of the Interior. Approved June 22, 1910.

(This Act is too long for this book, but can be found in the Session Laws of the Sixty-first Congress, Part 2.)

Note—Call at local U. S. land office, or write to "Commissioner General Land Office, Washington, D. C." for pamphlet on proceeding and forms to enter Coal Lands.

BUREAU OF MINES.

An Act to Establish in the Department of the Interior a Bureau of Mines. Approved May 16, 1910.

This Act in full can be found in Acts of Sixty-first Congress of the United States, part 2, at page 369 et seq. It gives the law establishing this Bureau, who its officers are and their duties. Too long for this book.

TUNNEL SITES.

(For Law on Tunnel Rights, see Sections 2323, 2324.)

LOCATION CERTIFICATE OF TUNNEL.

To All Whom These Presents May Concern:

Know ye, that I,....., a citizen of the United States, of....., county of....., state of....., do hereby declare and publish as a legal notice to all the world that I have a valid right to the occupancy, possession and enjoyment of the.....Tunnel and Tunnel Site, located....., A. D. 19..., for the discovery of mines and the development of lodes, and situate in..... .....mining district, ...county, state of ....., described as follows, to-wit:

Mouth of tunnel situate.....

Size of tunnel .....

Course of tunnel, from its mouth.....

which last four mentioned stakes are at the exterior corners of the claim of said tunnel site.

And I claim for line of tunnel.....feet on each side of the center of the bore or course of the tunnel, and the right to all lodes which may be discovered in the due prosecution of said tunnel within.....feet on either side of the center of said line.

I also claim a square tract of land 125 feet on each side of the mouth of tunnel and extending.....feet immediately below the mouth of the tunnel, as staked upon the ground, for dumping purposes.

Together with all and singular the hereditaments and appurtenances thereunto belonging or in any wise appertaining, and all rights granted to the locator as tunnel rights under the terms of Section 2323 of the Revised Statutes of the United States.

Witness my hand and seal, this.....day of ....., A. D. 19....

.....

State of ..... } ss.
County of ..... }

Before me, the subscriber, a notary public in and for said county, personally appeared....., to me personally known to be the same person described in and who executed the within declaration of occupation and acknowledged that he signed, sealed and published the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and notarial seal this.....day of ....., A. D. 19 ...

....., Notary Public.

State of ..... } ss.
County of ..... }

....., of the county of....., state of....., being first duly sworn according to law, deposes and says: That he is a citizen of the United States, over the age of twenty-one years; that he is the owner by pre-emption, location and occupation of the foregoing tunnel site, the said tunnel being prosecuted for the development of lodes belonging to said affiant; also for the discovery of other lodes; affiant further says that he has expended in actual work and improvements on said tunnel not less than..... .....dollars, and that said tunnel has been already run the distance of.....feet, and that it is bona fide his intention to prosecute work on said tunnel so located and described with reasonable diligence for the purposes therein set forth.

.....

Subscribed and sworn to before me, this.....day of....., A. D. 19....

....., Notary Public.

Also place at mouth of tunnel the following:

LOCATION NOTICE.

The....., Tunnel and Tunnel Site, located this.....day of....., ..., by .....

Course .....

Height of tunnel.....feet; width, ... feet.

I claim all lodes to be discovered in this tunnel, and not previously known to exist within 1500 feet on each side of tunnel, as staked on the ground.

I also claim a dump.....feet square, as staked.

Dated .....

.....

FORFEITURE TO CO-OWNER.

(For Law on this subject, see Section 2324.)

NOTICE OF FORFEITURE.

To.....:

You are hereby notified that I, the undersigned, have expended during the year ...., the sum of.....hundred dollars, in labor and improvements on the following described mining claims, being one hundred dollars worth of labor and improvements on each of the following named mining claims, to-wit: Those.....certain mining claims, situated in the.....mining district,..... county, state of....., known and described as follows:

.....mining claim, according to location notice thereof, recorded in Book.....of Mining Records, page....., Records of.....county, state of.....

(Follow with description of remaining claims, as above.)

That said work was done and improvements made on said claims during the year....., in order to hold the said claims under the provisions of Section 2324 of the Revised Statutes of the United States, and the amendments thereto, and the laws of the state of....., concerning annual labor to be done on mining claims.

That there is due from you to the undersigned the sum of .....hundred dollars on account of your share of the said.....hundred dollars expended for annual labor on the said mining claims during the year ....., and

You are hereby notified by the undersigned that if within ninety days from the personal service of this notice upon you,

or within ninety days after the service of this notice upon you by publication, you fail, refuse or neglect to contribute your portion of such expenditure, to-wit: the sum of..... hundred dollars to the undersigned, your interest in said mining claims will become the property of the undersigned, your co-owner, in accordance with the law in such cases made and provided.

Dated....., state of....., ..., 19....

.....

PROOF OF SERVICE OF NOTICE PERSONALLY.

State of .....
County of ..... } ss.

....., being duly sworn, says, that he served the within and foregoing forfeiture notice upon ....., the delinquent co-owner therein named, upon the.....day of....., A. D. ...., at said county of....., by delivering to the said....., a true copy of the said notice, and explaining the contents thereof, and that the said.....wholly failed to comply with the demand contained in said notice, or to pay or tender his proportion of said expenditures during the period of ninety days after said date, or at any time since hitherto.

.....

(To be sworn to before Notary Public.)

PUBLISHER'S PROOF OF FORFEITURE.

State of .....
County of ..... } ss.

(Copy of above notice attached.)

...., being duly sworn, saith, that he is the publisher of the....., a weekly newspaper, published in said county, and that said..... is the newspaper published nearest to said..... Lode Claim, and that the above notice was published in said paper fourteen successive weeks, the first publication appearing in the issue of....., and the last publication in the issue of.....

.....

(To be sworn to before Notary Public.)

AFFIDAVIT OF NON-PAYMENT.

State of .....
County of ..... } ss.

....., being duly sworn, saith, that....., the person named in the

forfeiture notice attached to the within proof of publication, wholly failed to comply with the demand contained in said notice or to pay or tender his proportion of said expenditures, during the period of said notice or within ninety days thereafter, or at any time.

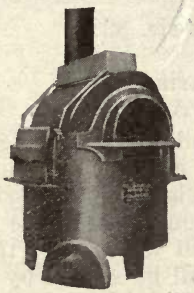
.....

(To be sworn to before Notary Public.)

The Calkins Company

348 North Main Street : Los Angeles, Cal.

EVERYTHING FOR THE
ASSAYER AND CHEMIST



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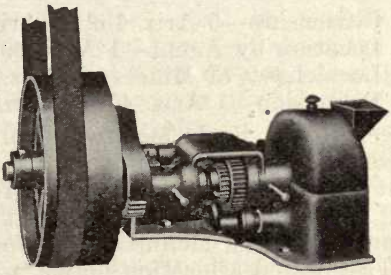

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MERCURY, CYANIDE
and
ZINC SHAVINGS

ARIZONA MINING LAWS

(From Revised Statutes 1913—See also U. S. Mining Laws.)

TITLE XXXIV.

CHAPTER I.

Sec. 4027. On the discovery of mineral in place on the public domain of the United States, the same may be located as a mining claim by the discoverer for himself, or for himself and others, or for others.

Citizenship—5 Ariz. 152; 3 Ariz. 6; 6 Ariz. 323.
Location by Agent—1 Ariz. 99.
Local Laws of Miners—1 Ariz. 99; 1 Ariz. 493.
Possession—1 Ariz. 404; 3 Ariz. 6; 13 Ariz. 331.

Sec. 4028. Such location shall be made by erecting at or contiguous to the point of discovery a conspicuous monument of stones not less than three feet in height, or an upright post, securely fixed, projecting at least four feet above the ground, in which monument of stones or on which post there shall be posted a location notice, which shall be signed by the name or names of the locator or locators. The location notice must contain:

1. The name of the claim located.
2. The name or names of the locators.
3. The date of the locations.
4. The length and width of the claim in feet, and the distance in feet from the point of discovery to each end of the claim.
5. The general course of the claim.
6. The locality of the claim with reference to some natural object or permanent monument whereby the claim can be identified.

What Claim Includes—1 Ariz. 426; 4 Ariz. 34; 7 Ariz. 95.
Location Notice and Amendment—2 Ariz. 272; 4 Ariz. 34; 3 Ariz. 6; 6 Ariz. 79; 6 Ariz. 55; 6 Ariz. 623; 6 Ariz. 263; 7 Ariz. 95; 13 Ariz. 331.
Relocation—2 Ariz. 347; 2 Ariz. 326; 6 Ariz. 55; 11 Ariz. 66.

Sec. 4029. Until each and all of the above specified things shall have been done, no right thereto shall have been acquired.

Sec. 4030. From the time of the location of a mining claim, as above specified, the locator shall be allowed ninety days within which to do or cause to be done the following things:

1. To cause to be recorded in the office of the county recorder of the county in which the claim is situated a copy of the location notice.

2. To sink a discovery shaft in the claim to a depth of at least eight feet from the lowest part of the rim of the shaft at the surface, and deeper, if necessary, until there is disclosed in said shaft mineral in place.

3. To monument the claim on the ground so that its boundaries can be easily traced.

Location Work—2 Ariz. 407; 11 Ariz. 309; 12 Ariz. 213.
Recording Notice—1 Ariz. 493; 3 Ariz. 6; 6 Ariz. 55.

Sec. 4031. The failure to do all the things enumerated in this section in the time and place specified shall be construed into an abandonment of the claim, and all right and claim thereto of the discoverer and locator shall be forfeited.

Sec. 4032. Such surface boundary shall be marked by six substantial posts projecting at least four feet above the surface of the ground, or by substantial stone monuments at least three feet high, to-wit: One at each corner of said claim and one at the center of each end line thereof.

Sec. 4033. Any open cut, adit or tunnel which shall be made as above provided for, as a part of the location of a lode mining claim, and which shall be equal in amount of work to a shaft eight feet deep and four feet wide by six feet long, and which shall cut a lode or mineral in place at a depth of ten feet from the surface, shall be equivalent, as a discovery work, to a shaft sunk from the surface.

Sec. 4034. Location notices may be amended at any time and the monuments changed to correspond with the amended location; PROVIDED, That no change shall be made that will interfere with the rights of others.

Sec. 4035. Within three months after the expiration of the period of time fixed for the performance of annual labor or the making of improvements upon any mining claim, the person on whose behalf such work or improvement was made, or some person for him knowing the facts, may make and record in the office of the county recorder of the county wherein such claim is situated, an affidavit, in substance as follows: State of Arizona, County of.....—ss. ....., being duly sworn, deposes and says that he is a citizen of the United States and more than twenty-one years of age, resides at.....in County, Arizona, and is personally acquainted with the mining claim known as.....mining claim, situated in.....mining district, Arizona, the location notice of which is recorded in the office of the County Recorder of said county, in book.....of Records of Mines, at page..... That between the..... day of..... A. D....., and the.....day of

.....A. D. ....., at least.....dollars' worth of work and improvements were done and performed upon said claim, not including the location work of said claim. Such work and improvements were made by and at the expense of....., owners of said claim, for the purpose of complying with the laws of the United States pertaining to assessments of annual work, and (here name the miners or men who worked upon the claim in doing the work) were the men employed by said owner and who labored upon said claim, did said work and improvements, the same being as follows, to-wit: (Here describe the work done.)

Signature.....

Subscribed and sworn to before me this....day of..... A. D.....

My commission as Notary Public expires on the.....day of .....A. D.....

(Notarial Seal.) .....

Notary Public.

Sec. 4036. When two or more contiguous claims are owned by the same person or persons, and constitute a group, and the annual work is done upon each of said claims or upon one or more of the same for the benefit of all, or wholly or partly outside of such claims for the benefit of all, all such claims may be included in a single affidavit.

Sec. 4037. Such affidavit, when so recorded, shall be prima facie evidence of the performance of such labor or the making of such improvements, and said original affidavit, after it has been recorded, or a certified copy thereof, or the record thereof, shall be received as evidence accordingly by the courts of this State. The location of an abandoned or forfeited claim shall be made in the same manner as other locations, except that the relocator may, if he so elect, perform his location work by sinking the original location shaft eight feet deeper than it was originally, or in case the original location work consisted of a tunnel or open cut, he may perform his location work by extending said tunnel or open cut by removing therefrom 240 cubic feet of rock or vein material.

Abandonment and Forfeiture—1 Ariz. 493; 6 Ariz. 55; 6 Ariz. 323; 6 Ariz. 103; 6 Ariz. 263; 11 Ariz. 66; 11 Ariz. 193.

Relocation—2 Ariz. 347; 2 Ariz. 326; 6 Ariz. 55; 11 Ariz. 66; 13 Ariz. 331; 14 Ariz. 214.

Sec. 4038. The locator of a placer mining claim shall locate his claim in the following manner: By posting a location notice thereon containing the name of the claim, the name of the locator or locators, the date of location and the number of acres claimed, a description of the claim with reference to some natural object or permanent monument that will identify the claim by marking the boundaries of his claim with a post

or monument of stones at each angle of the claim located. When a post is used it must be at least four inches thick by four feet six inches in length, set one foot in the ground and surrounded by a mound of stone or earth.

Sec. 4039. Where it is practically impossible on account of a bed rock or precipitous ground to sink such posts, they may be placed in a pile of stones. And if or any reason it is impossible to erect and maintain a post or monument of stone at any angle of such claim, a witness post or monument may be used, said witness monument to be placed as near the true corner as the nature of the ground will permit. When a mound of stone is used, it must be at least three feet in height and four feet in diameter at the base.

Sec. 4040. The locator of any placer claim shall, within sixty days after the date of location of such claim, have a copy of the location notice claim recorded in the office of the county recorder of the county in which said placer claim may be situated. Any record of the location of a placer mining claim which shall not contain all the requirements of the two next preceding sections shall be void.

Sec. 4041. There shall be a uniform fee of one dollar charged by each county recorder in the state for recording each notice of location of a mining claim, including certificate of work done to comply with the law regarding locations, the said one dollar to be in full for filing, recording and indexing said notice and certificate and certifying to the same under seal.

Sec. 4042. Whenever a co-owner or co-owners shall give to a delinquent co-owner or co-owners the notice in writing or notice by publication provided for in section twenty-three hundred and twenty-four (2324) of the Revised Statutes of the United States, an affidavit of the persons giving such notice, stating the time, place, manner of service, and by whom and upon whom such service was made, shall be attached to a true copy of such notice, and such notice and affidavit must be recorded in the office of the county recorder of the county in which the mining claim is situate after the expiration of ninety days after giving the notice; or, if such notice is given by publication in a newspaper, there shall be attached to a printed copy of such notice an affidavit of the editor, publisher or foreman of such paper, stating the date of the first, last and each insertion of such notice therein, and when and where the newspaper was published during that time and the name of such newspaper. Such affidavit and notice shall be recorded as aforesaid after the expiration of one hundred and eighty days after the first publication thereof.

194 U. S. 248; 150 U. S. 585.

Sec. 4043. The original of such notice and affidavits, or the records thereof, shall be prima facie evidence that the delinquent mentioned in section 2324 has failed or refused to con-

tribute his proportion of the expenditure required by that section, and of the service or publication of said notice; provided the writing or affidavit provided for in the following section is not of record.

Sec. 4044. If such delinquent shall, within the ninety days required by Section 2324 aforesaid, contribute to his co-owner or co-owners his proportion of such expenditures, such co-owners shall sign and deliver to the delinquent, or delinquents a writing, stating that the delinquent or delinquents, by name, has, within the time required by Section 2324 of the Revised Statutes of the United States, contributed his share for the year.....upon the.....mine, and further stating therein the districts, county and territory wherein the same is situate, and the book and page where the location notice is recorded. Such writing shall be recorded in the office of the county recorder of said county.

Sec. 4045. If such co-owner or co-owners shall fail to sign and deliver such writing to the delinquent or delinquents within twenty days after such contribution, the co-owner or co-owners, so failing as aforesaid, shall be liable to a penalty of one hundred dollars, to be recovered by any person for the use of the delinquent or delinquents in any court of competent jurisdiction. If such co-owner or co-owners fail to deliver such writing within said twenty days, then the delinquent, with two disinterested persons having personal knowledge of such contribution, may make an affidavit, setting forth in what manner, the amount of, to whom and upon what mine such contribution was made. Such affidavit or a record thereof, in the office of the county recorder of the county in which said mine is situate, shall be prima facie evidence of such contribution.

Sales—6 Ariz. 103; 7 Ariz. 258.

Leases—7 Ariz. 399.

Sec. 4046. In all actions, judgments, grants or conveyances it shall be a sufficient description of a mining claim if it can be intelligently learned therefrom the name of the claim, the district, County and State where it is situated, and the book and page where the location notice thereof is recorded.

13 Ariz. 265.

CHAPTER II.

DRAINAGE OF MINES.

Sec. 4047. Whenever adjacent or contiguous mines, occupied and worked upon the same or upon separate lodes, have a common ingress of water or by reason of subterranean communication of water have a common drainage, it shall be the duty of the owners, lessees or occupants of said mine so related, to provide for their proportionate share of such drainage, or to prevent the water in such mine from flowing in or

upon neighboring mines, thereby imposing upon them an unjust burden.

Sec. 4048. If any owners, lessees or occupants of any such mine shall fail or neglect to provide for the drainage thereof, and by reason of such failure or neglect, the owners, lessees or occupants of any adjacent or contiguous mine are compelled to pump or drain or otherwise provide for the water flowing in from such first mentioned mine, then, and in such event the owners, lessees or occupants of the mine so in default, shall pay, respectively, to those performing the work of drainage their proportion of the actual and necessary cost and expense of pumping, draining or otherwise providing for said water, and if they fail or refuse to make such payment, the same may be recovered by an action in any court of competent jurisdiction.

Sec. 4049. It shall be lawful for all mining corporations or companies and all individuals engaged in mining having thus a common interest in draining such mines to unite for the purpose of effecting the same under such common name and upon such terms and conditions as may be agreed upon; and every such association having filed a certificate of incorporation, as provided by law, shall be deemed a corporation, with all the rights, incidents and liabilities of a body corporate so far as the same may be applicable.

Sec. 4050. Failing mutually to agree as indicated in the preceding sections for drainage jointly, one or more of said parties may undertake the work of drainage after giving reasonable notice to the other parties interested as aforesaid, and should the remaining parties then fail, neglect or refuse to unite in equitable arrangements for doing or sharing the expense thereof, they shall be subject to an action therefor as already specified, to be enforced in any court of competent jurisdiction.

Sec. 4051. When an action is commenced, as provided herein, to recover the costs and expenses for draining a lode or mine, it shall be lawful for the plaintiff to apply to the court for an order to inspect and examine the lodes or mines claimed to have been drained by the plaintiff, and upon affidavit that such inspection or examination is necessary for a proper preparation of the case for trial, the court shall grant an order for the underground inspection and examination of the lode or mine described in the petition. Such order shall designate the number of persons, not exceeding three, besides the plaintiff or his representative, who may examine and inspect such lode and mines, and take measurements for the purpose of showing the amount of water taken from the lode or mine or the number of fathoms of ground mined and worked out of the lode or mines claimed to have been drained, the cost of such examination and inspection to be borne by the party applying

therefor. The court shall have power to cause the removal of any rock, debris, or any other obstacle in any lode or vein when such removal is shown to be necessary to a just determination of the question involved; provided, that no such order for inspection and examination shall be made except upon notice of at least three days, nor unless it appears that the plaintiff has been refused the privilege of making the examination by the defendant, his or their agent.

Sec. 4052. The provisions hereof shall not apply to unopened or undeveloped mines, but shall apply to all opened and developed mines which derive a benefit from being drained.

CHAPTER III.

MINE INSPECTOR AND OPERATION OF MINES.

Sec. 4053. The terms of this chapter shall apply to all mines in the state of Arizona.

Mine.—The term "Mine" when used in this chapter shall include any and all parts of any mine within the state, and any mining plant or equipment connected therewith, underground or on the surface, which contributes, or may contribute, to the mining or handling of ore, coal, or other metalliferous or nonmetalliferous mineral product.

Operator.—The term "Operator" when used in this chapter shall mean the person, firm, association, company or corporation in immediate possession of any mine, or mining claim, or accessories thereof, as owner or lessee thereof, and as such, responsible for the management and condition thereof.

Inspector and Deputies.—The term "Inspector" when used in this chapter signifies the State Mine Inspector; and the terms "Deputy" and "Deputy Inspector" mean a State Deputy Mine Inspector.

Excavations or Workings.—The words "Excavations" and "Workings" when used in this chapter signify any or all parts of a mine excavated, or being excavated, including shafts, tunnels, entries, winzes, raises, stopes, open cuts, and all working places, whether abandoned or in use.

Sec. 4054. The office of State Mine Inspector for the state of Arizona is hereby created, in accordance with Article XIX of the Constitution of the state of Arizona, the office to be filled biennially at the general election by the qualified electors of the state, except as to the first state mine inspector, who shall be appointed by the governor, by and with the advice and consent of the senate, and who shall serve until his successor shall have been elected at the first general election thereafter, and shall qualify. Said mine inspector so elected, and all subsequent incumbents of said office, shall be elected at general elections, and shall serve for two years. The office of the mine inspector shall be at the State Capitol.

Sec. 4055. The state mine inspector shall be a qualified elector of the state and a resident thereof at least two years prior to his appointment or election, and not under thirty years of age, and shall have been practically engaged in, and acquainted with, mines and mining in this state, and shall have had at least seven years' experience in the underground mining.

No person shall be appointed to the office of inspector or deputy inspector, nor be qualified to hold the office of inspector, or deputy inspector, while an employee, director, or officer, of any mining, milling, or smelting company. The inspector and each deputy must devote his entire time to the duties of his office; and it shall be unlawful for the inspector, or any deputy, to be otherwise employed by the state of Arizona, or to act directly or indirectly for or on behalf of any candidate for public office, or receive compensation either directly or indirectly from any candidate for public office, or from any political party in the state, during the term of office of such inspector, or deputy inspector.

Sec. 4056. Failure to observe the provisions of this chapter shall render the inspector liable to immediate removal from office without further cause shown; and such failure shall render any deputy inspector liable to immediate removal by the mine inspector, or as provided by law, without further cause shown.

Sec. 4057. The state mine inspector shall receive, as full compensation for his services, a salary payable at the rate of three thousand dollars per annum, and his necessary traveling expenses when traveling in the discharge of official duties, not to exceed fourteen hundred dollars per annum, and all necessary expenses for clerk hire, postage, stationery, printing, and office expenses, not to exceed fourteen hundred dollars per annum, and such compensation and expenses shall be paid as the salary and expenses of other state officers are paid.

The mine inspector, before entering upon the discharge of his duties, shall file an official bond in the sum of five thousand dollars, conditioned for the faithful performance of the duties of his office, in form and manner as other official bonds of state officers.

Sec. 4058. The state mine inspector is hereby authorized and directed forthwith, after entering upon the duties of his office, to appoint three deputy mine inspectors. They shall hold office during the term of the state mine inspector appointing them, unless sooner removed by him, or as provided in this chapter, or otherwise by law.

Deputy mine inspectors shall have the same qualifications as the mine inspector, and shall be subject to the same penalties for violation of their duties, and the provisions of this chapter, as the state mine inspector.

Sec. 4059. Each deputy inspector shall receive a salary payable at the rate of eighteen hundred dollars per annum, which shall be compensation in full, for all services; and his necessary traveling expenses, not to exceed fourteen hundred dollars per annum, to be audited and allowed as other expenses of state officers.

Before entering upon his duties as such deputy he shall file an official bond in the sum of twenty-five hundred dollars, conditioned the same as the bond of the mine inspector.

Sec. 4060. No inspector, or his deputy, or any employee thereof, shall, for any purpose whatever, make a report on any mine or mining property or prospect, except an official report to his superior officer, or to the governor; nor shall he make public or reveal to any person any knowledge or information obtained by him in the exercise of his official duties concerning ore, ore bodies, or values, of any mine or part thereof.

An inspector, or his deputy, or any employee thereof, who violates any of the provisions of this section, or of his oath, shall be dismissed from his office.

Sec. 4061. The mine inspector shall have a seal bearing the words, "Mine Inspector, State of Arizona," which shall be kept by him exclusively for the use of his office, and said seal shall be affixed to official documents only.

Sec. 4062. It shall be the duty of the mine inspector, by himself or by deputy, to visit, at least once every three months, every mine in this state employing fifty or more men underground, and every other working mine employing six or more men, at least once every year, and oftener, if in his opinion the safety of the men employed in the mine so require; and to inspect, investigate, inquire, and examine into, the operation, workings, timbering, safety appliances, machinery, sanitation, ventilation, means of ingress and egress, means taken to protect the lives and insure the safety of the miners, together with the cause of accidents and accidental deaths therein, and in general to inspect and ascertain what means are taken to comply with the provisions of this chapter. For the purpose of making such inspection and ascertaining facts in connection with such investigation, examination, and inquiry, the inspector, or his deputy, shall have full power and authority, upon exhibition of his certificate of appointment or election, at all hours to enter and examine any part of any mine, and to visit, investigate, and examine any plant or equipment connected therewith, within this state, or any part of the workings thereof. All operators and their employees shall render to the inspector, or his deputy, such assistance as may be necessary to enable the inspector, or his deputy, to make such examination.

Sec. 4063. If upon examination or inspection it shall appear to the mine inspector, or a deputy thereof, that a mine, or

part thereof, is, from any cause, in a dangerous condition or fails to comply with the provisions of this chapter, he shall at once notify the operator, or his agent in charge thereof, such notice to be in writing and to be served by copy upon the operator, or his agent in charge. Said notice shall state in detail in what particular said mine or part thereof is deemed dangerous, insecure, or not in compliance with the provisions of this chapter, and shall state what necessary changes should be made to provide safety for employees, or other compliance to be made, and provide reasonable specified time within which to make the same; and the operator of said mine shall forthwith make such change or compliance in accordance with said mine inspector's or deputy's requirements.

In case of any civil or criminal procedure at law against the party or parties so notified, on account of loss of life or bodily injuries sustained by an employee subsequent to such notice, and in consequence of said dangerous condition, a certified copy of the notice served by the inspector shall be prima facie evidence of the negligence of said party or parties.

If it appears from a re-examination of the mine by the inspector, or a deputy inspector, that such changes or compliances have not been made within the time specified in such notice, and that the mine or part of such mine is still in a condition dangerous to life or health, and in the opinion of the inspector it is necessary for the safety of the life or health of the employees in such mine or part of the mine, that the same be vacated, it shall be the duty of the inspector forthwith to order the cessation of the operation and working of said mine or part of mine, and to order that the employees shall not be permitted therein for the purposes other than to remedy the defects complained of, until the provisions of this chapter are complied with to the satisfaction of the mine inspector or his deputy, and the said mine, or part of the mine, made safe for the employees therein. The operator of said mine shall forthwith obey said order.

Sec. 4064. Whenever the inspector receives a complaint in writing signed by one or more persons employed in a mine, setting forth that the mine or part thereof in which he or they are working is being operated contrary to law, or is dangerous in any respect to the health or lives of those employed therein, the inspector must in person, or by deputy, examine such mine as soon as possible. The names of the persons making such complaint shall be kept secret by the inspector, unless permission to disclose them be expressly granted by the persons making the complaint. Such complaint shall, in all cases, set forth the nature of the danger existing at the mine, and the time when such danger was first observed. If, after such inspection, the inspector finds the conditions, in his opinion, dangerous to the health or lives of those employed therein, he shall

serve a notice setting forth fully the facts, upon the operator or any person having charge of such mine, and shall order the operator of said mine or mines to remove such dangerous or harmful conditions; and the operator of said mine shall obey such order.

It shall be the duty of the inspector or any deputy to forward every such original complaint, so received, to the office of the mine inspector, where it shall be indexed and filed among the official papers of the mine inspector.

Sec. 4065. Whenever loss of life or serious accident shall occur in any mine within this state, the owner, agent, manager, or operator, having charge of operating such mine, shall give notice immediately, in the quickest possible manner, and report the facts thereof in writing to the office of the mine inspector. The refusal or failure of said owner, agent, manager, or operator to so report shall be deemed a misdemeanor. The mine inspector, upon receipt of notice of such accident, shall investigate the same and make, or cause to be made, a report, which shall be filed in his office for future reference. In case of loss of life, said mine inspector shall, personally or by regularly appointed or special deputy, appear at the coroner's inquest held respecting such accident, and may examine or cross-examine witnesses relative to the same, for the purpose of ascertaining the cause of such accident, and for his information in filing reports concerning the same. If, after making such investigation, the inspector considers the facts warrant it, it shall be the duty of such inspector to cause a copy of the report of such accident, or a copy of the testimony taken at the coroner's inquest, together with the verdict of the coroner's jury, and all papers in his hands relating thereto, to be forwarded to the prosecuting officer of the county in which the accident or loss of life occurred, together with an accompanying statement of the inspector, showing in what particular or particulars he believes the law to have been violated, and if upon the receipt thereof, the prosecuting officer of the said county deems the facts sufficient to make a prima facie case of criminal action against any person or persons, he shall present such evidence to the grand jury, or take such steps, for the criminal prosecution of such operator, employees, or other persons, as may seem advisable.

Sec. 4066. If any operator shall violate any of the provisions of sections 36 (Par. 4088), 37 (Par. 4089) or 38 (Par. 4090) of this chapter, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars and not to exceed five hundred dollars, or imprisonment in the county jail not to exceed one year, or both such fine and imprisonment.

Sec. 4067. It shall be the duty of the inspector, or any deputy, after every inspection made of any mine or part of any

mine, as provided in this chapter, to enter forthwith in a book to be kept at the mine, and designated as the "Record of Inspection," the portion of the mine so inspected, the nature of such inspection, and every dangerous defect observed in the state and conditions of the mine, machinery, and appliances; but nothing contained in or omitted from such entry shall limit or affect the duty and obligation of the owner or operator of such mine under this chapter. Such "Record of Inspection" shall be open at all reasonable times to the examination of the inspector, or any of his deputies, and to the examination of any operator or person following the occupation of mining.

Sec. 4068. It shall be the duty of the mine inspector on the 31st day of December in each year to make and file with the governor a report giving a statistical summary and report of the work of the mine inspector and deputy mine inspectors during the year ending November 30th. Such report shall contain a statement showing the number of men employed in each mine in the state, and separately, the number of men employed above ground and under ground, the number and nature of fatal and serious accidents occurring in each mine, the number of inspections made, complaints filed, inquests attended, mines or mine workings ordered to be vacated, violations found, and any other information of the law deemed important and relevant by the mine inspector, together with such recommendations as in the judgment of the mine inspector are necessary or desirable to the carrying out of this chapter and to insure the safety of the workmen employed in mines. Copies of such reports shall be published and distributed by and at the expense of the state as a public document.

Sec. 4069. It shall be the duty of the mine operator, superintendent, or anyone in charge of a mine, where ten or more men are employed, to keep at the mouth of the tunnel, shaft, or stope, or at such other place about the mine as may be designated by the mine inspector, a stretcher and a woolen and waterproof blanket, in good condition, for use in carrying any person who may be injured at the mine. Where more than one hundred persons are employed two or more stretchers with woolen and waterproof blankets shall be kept, and at all mines a supply of first aid remedies shall be kept readily accessible for the treatment of anyone injured; provided, that in all mines where three hundred or more men are employed, a first aid corps must be organized, consisting of the foreman or foremen, shift bosses, timekeepers, and other employees, designated by the operator or superintendent of the mine to cause the organization of such; and to procure the services of a competent surgeon and physician to instruct the members of such first aid corps from time to time, not less than once in each calendar month, in the proper handling and treatment of injured persons before the arrival of a physician.

Sec. 4070. When considered necessary by the mine inspector, and so ordered by him, the operator of every mine, employing ten or more men under ground, shall make and maintain, or cause to be made and maintained, a reasonably accurate map of the workings of such mine. At least once in every six months, or oftener, if necessary, the operator or engineer of such mine shall cause to be shown with reasonable accuracy on the map of said mine, all the excavations made therein during the time elapsed since such excavations were last shown on said map, and all parts of said mine, which were worked or abandoned during said elapsed period of time, shall be clearly indicated on said map, and all underground workings shall be surveyed and mapped before they are allowed to become inaccessible. Such maps shall, at all times, be open to the examination of the mine inspector or of his deputies.

Sec. 4071. (a) All explosives must be stored in a magazine provided for that purpose alone; said magazine to be placed far enough from the working shaft, tunnel, or incline to insure the same remaining intact in the event the entire stock of explosives in said magazine be exploded; no powder or other explosives shall be stored in underground workings where men are employed; all explosives in excess of the amount required for twenty-four hours' work must be kept in said magazine; and provided, that such temporary supply shall not be kept at any place within such mine where its accidental discharge would cut off the escape of miners working therein. Each mine or operator shall provide a suitable device for thawing or warming powder and keeping the same in condition for use, and no powder shall be thawed except in such device; oils or other combustible substances or blasting caps shall not be kept or stored in the same magazine with explosives. All nitroglycerine, nitro or blasting powder, or other high explosives sold in the state of Arizona shall be properly marked with the date of manufacture on each stick of powder, and no nitroglycerine, nitro or blasting powder, or other high explosives shall be sold or used after twelve months from date of manufacture.

(b) The mine inspector shall have the authority to regulate and limit the amount of blasting or nitro powder or other high explosives stored or kept in general supply stores in mining camps or mining towns where there is no law governing the storage of same.

(c) No person shall, whether working for himself or in the employ of any person, company, or corporation, while loading or charging a hole with any blasting powder or other high explosives, use or employ any steel or iron tamping bar; nor shall any mine manager, superintendent, foreman, shift boss, or other person having the management or direction of mine labor,

allow or permit the use of such steel, iron, or other metal tamping bar by employees under his management or direction.

(d) Every person, company, or corporation, manufacturing, storing, selling, transferring, dealing in, or in any manner disposing of any powder, gun powder, giant or hercules powder, giant caps, or other highly explosive substances, shall keep in a book for that purpose an accurate record of all transactions, with the date thereof, relating to the receiving and disposing of the same, which record shall show the amount of each such explosive received, of whom received, when received, disposition made of such explosive, with the amount thereof, and the name of the person to whom delivery of the same was made, who shall be required to receipt therefor. Such record shall at all times be open to the inspection of the state mining inspector, or any peace officer.

(e) Before firing charges, warning must be given in every direction from which access may be had to the place where blasting is going on, and misfire holes shall be reported to the mine foreman, or the shift boss, in charge of the locality of such holes. If the shots are fired by electricity, the place must be carefully examined before men are permitted to work therein. The miner in charge shall further instruct those employed in clearing away the loose rock, to report to him immediately the finding of any wires in or under the loose rock, and in the event of such being discovered, he shall at once order the work to cease until the wires have been carefully traced to their terminals in order to determine whether a misfire has occurred.

Sec. 4072. All mines having but one exit, and the same covered with a building containing the mechanical plant, furnace room or blacksmith shop, shall have fire protection, water if possible, and in mines where water is not available, chemical fire extinguishers or hand grenades shall be kept in convenient places for immediate use.

Sec. 4072. It is hereby made the duty of every person, company, or corporation, who shall have on any mine a vertical shaft or incline to a greater depth than one hundred feet, and who shall have drifted on or along the vein or veins a distance of two hundred feet or more, and shall have commenced to stope to provide and maintain to the hoisting shaft or the opening through which men are let into or out of the mine and the ore is extracted, a separate escapement shaft, raise, or opening, or an underground opening or communication with some other contiguous mine; provided, that in case such contiguous mine belongs to a different person, company, or corporation, the right to use the outlet through such contiguous mine, in all cases when necessary, or in case of accident, must be secured and kept in force. Where such an escapement shaft or opening shall not be in existence at the time that stoping is commenced,

work upon such an escapement shaft, or opening, must be commenced as soon as stoping begins and be diligently prosecuted until same is completed, and said escapement shaft, raise, or opening shall be continued to and connect with the lowest workings in the mine. The exit, eescapement shaft, raise, or opening, provided for in this section must be of sufficient size to afford an easy passageway, and if it be a raise or shaft, must be provided with substantial ladders from the deepest workings to the surface. Whenever the exit or outlet herein provided for is not in a direct or continuous course, signboards plainly marked showing the direction to be taken must be placed at each departure from the continuous course.

Sec. 4074. (a) No person addicted to the use of intoxicating liquors or drugs, or under eighteen years of age, shall be employed as a hoisting engineer.

(b) All hoisting machinery using steam, electricity, air, gasoline, or hydraulic motive power, for the purpose of hoisting from or lowering into mines, employees and materials, except prospect shafts not exceeding three hundred feet in depth, shall be equipped with an indicator, said indicator to be placed near to and in clear view or hearing of the engineer. This indicator must be in addition to marks on the rope, or cable, or drum.

(c) It shall be unlawful to hoist men out of, or lower men into, a mine at a speed greater than eight hundred feet per minute. When it is shown that in running his engine at a greater speed than eight hundred feet per minute, the engine has violated the orders of his employers, the engineer is subject to penalty.

(d) All hoisting machinery must be inspected once in every twenty-four hours by a competent person appointed by the mine manager or superintendent for that purpose, and such inspector shall immediately report in writing to said manager or superintendent any and all defects found.

(e) All ropes or cables used for hoisting purposes shall be of approved quality and manufacture; and in shafts and winzes of over two hundred feet in depth wire ropes or cables only shall be used for hoisting purposes.

(f) All head frames where men are hoisted at a speed of over two hundred and fifty feet per minute, and where more than twenty-five men are employed, shall be so constructed as to allow at least twenty-five feet above the hoist landing stage, in which the cage, skip, or bucket can travel freely in case of an overwind. The mine inspector may grant permission for the use of any head frame erected previous to the enactment of this law, which does not comply with the above conditions.

(g) It shall be unlawful for the operator of any mine to permit the hoisting or lowering of men in any shaft deeper than three hundred feet, unless an iron-bonneted safety cage

equipped with gates at least five feet in height to be used for the hoisting and lowering of such men; but this provision shall not apply to shafts in process of sinking; every cage must have overhead bars of such arrangement as to give every man on the cage an easy and secure handhold. Every cage or skip used for hoisting men must be provided with a safety catch of sufficient strength to hold the cage or skip with its maximum load at any point in the shaft in the event that the hoisting cable should break. The inspector or his deputy must see that all cages and skips are equipped in compliance with this paragraph, and that on all cages the safety catches are kept well oiled and in good working condition. In any shaft of less than three hundred feet depth where no safety cage is used, and where cross-head or cross-heads are used, platforms for employees to ride upon, equipped with safety catches as for cages and skips herein provided, shall be provided.

(h) All vertical shafts more than two hundred feet deep from which hoisting is done by means of a bucket must be provided with suitable guides, and in connection with the bucket there must be a cross-head traveling upon these guides. The height of the cross-head shall be at least one and one-half times its width. If the cross-head be a type that is not secured to the hoisting rope, a stopper of design to be approved by the mine inspector must be securely and rigidly fastened to the hoisting rope at a suitable point above the rim of the bucket.

(i) The number of persons permitted to ride on the deck of a cage or in or on a skip, or bucket, shall be determined by the mine inspector, and in no case shall more than the number of men permitted by the mine inspector be allowed to ride on the deck of such cage or in or on such skip or bucket. No person shall ride upon a cage or in or on a skip or bucket when loaded with rock or ore.

(j) When tools, timber, or other materials are to be loaded or hoisted in the shaft, the ends, if projecting above the top of the bucket, skip, or other vehicle, shall be securely fastened to the hoisting rope or to the upper part of the vehicle, and tools, timber, or other material loaded erectly upon a cage must be securely lashed before being hoisted or carried.

(k) No person shall ride upon any cage, skip, or bucket, that is loaded with tools, timber, powder, or other material, except for the purpose of assisting in passing these through the shaft.

(l) In no case shall a cage, skip, or bucket, or other vehicle, be lowered directly to the bottom of a shaft when men are working there, but must be stopped at least fifteen feet above the botton until the signal to lower further has been given by one of the men at the bottom of the shaft. This rule shall not apply to shafts less than fifty feet in depth.

(m) Persons engaged in deepening a shaft in which regu-

lar hoisting from any upper level is going on shall be protected from the danger of falling material by a suitable covering, sufficient opening in the covering only being left for the passage of the bucket or other conveyance used in the sinking operations.

(n) In shafts, winzes, or raises, where two or more crews of men are working one crew above another, there shall be a bulkhead between each two crews of men, strong enough to stop any tools or other material that may fall from the men working above, and only the cage, skip, or bucket compartment to be left open.

(o) All shafts or winzes shall have a bulkhead over the men working in the bottom of the shaft or winze. Said bulkhead shall be built of timber not less than six inches in thickness, and said bulkhead shall be not more than fifty feet above the bottom of said shaft or winze, and provide ample protection for the men working in the bottom of said shaft or winze, and shall be so constructed as not to shut off the air circulation; the cage, skip, or bucket compartment only to be left open. All shafts or winzes shall be cleaned down below the bulkhead after each blasting.

(p) Windlasses and whims in use at or in mines shall be provided with a suitable plug or some other reliable device to prevent running back of the bucket or other conveyance.

(q) No open hook shall be used with a bucket in hoisting, but only some approved form of safety hook or shackle hook.

(r) A release signal of one bell to the hoisting engineer shall be given to release the cage, skip, or bucket after it has been stopped at any station, to obviate the danger of movement of such cage, skip, or bucket to any other station or point in shaft.

(s) At any mine where men are hoisted by mechanical means, a hoistman charged with the hoisting thereof shall be kept on duty at the hoist at all times when men are underground.

Sec. 4075. (a) Every mine shall have at least two outlets to the surface, except as hereinbefore provided. Such outlets must not lead to the surface in one and the same house, and must not at any point be nearer to one another than thirty feet. In the event that two oultets of any mine, or part of them, do not belong to the same mine, the owners and operators of the respective mines shall be responsible for the outlet, or part of it, in their respective mines, being kept in proper repair; and should any obstruction arise in any such outlet, or anything occur in one of the mines to jeopardize the safety of the outlet, the occurrence shall be immediately reported to the owner, manager, or superintendent of the other mine or mines. If either of the two outlets or part of them be situated in an abandoned mine or mines, the operators of the working

mine or mines shall be jointly and severally responsible for the proper maintenance and repair of such outlet or outlets.

(b) At every mine where a single shaft be allowed to afford the only means of ingress and egress to the persons employed underground, such shaft, if more than two hundred feet deep, shall be divided into at least two compartments, and one of the compartments shall be set aside for a ladderway, which must be equipped as hereinafter provided. Whenever such a single shaft be covered by a building not absolutely fireproof, the ladderway shall be securely bulkheaded at a point at least twenty-five feet below the collar of the shaft, and below this bulkhead, if the shaft is situated upon a side hill, a drift shall be driven to the surface; if the shaft be situated in a level country, this drift shall be driven to a safe distance beyond the walls of the building, but in no case less than thirty feet, and from there a raise shall be made to the surface. This raise shall be equipped with a ladderway, and it, together with the drift connecting with the main shaft, shall be kept in good repair and shall afford a safe escape in the event of fire.

(c) After the enactment of this law, no structure shall be erected over an outlet of a mine, except the head-frame necessary for hoisting from a shaft and the hatch or door necessary for hoisting from a shaft and the hatch or door required to protect, from inclemency of the weather, men obliged to work at the top of a shaft. If, for the latter purpose, a house be required, the mine inspector may, in writing, grant permission for its construction, but such a house must be as small as possible, must be constructed of uninflammable material, and the storage of any inflammable material inside of it, or within thirty feet of it, is prohibited. In the case of existing houses covering the mouths of the shafts and adits, no inflammable material shall be stored inside of them; nor outside of them within a distance of thirty feet from the exterior walls of the house.

(d) Every adit of which the mouth is covered by a house or building of any kind shall be provided with a fireproof door, near the mouth of the adit, that can be closed from outside of the building by means of a pull wire or cable, so as to keep the gases of combustion from entering the mine in the event that fire destroys the building at the mouth of the adit.

(e) Every shaft, winze, raise, or incline, of steeper slope than forty degrees from the horizontal and deeper than forty feet, through which men are obliged to travel, shall be provided with a ladderway. Suitable ladders, or footways, shall be provided to connect floors of sets in stopes, and other places requiring communication in a mine. Every shaft shall have, in addition to any mechanical means of ingress and egress, at least one proper ladder or footway communicating from the lowest workings of the mine to the surface.

(f) Permanent ladderways, used for the ascent or descent of persons in the mine shall be sufficiently strong for the purpose demanded, and shall be firmly fastened and kept in good repair. In a vertical shaft the mine inspector may, in his own discretion, by an order in writing, direct that the ladder shall be inclined at the most convenient angle which the space in which the ladder is fixed allows, and every such ladder shall have substantial platforms at intervals of not more than twenty feet.

The said platform shall be closely covered, with the exception of an opening large enough to permit the passage of a man, and shall be so arranged that by no means could a person fall from one ladder through the opening to the next ladder.

(g) Ladderways shall be provided in all shafts in the course of sinking to within such distance from the bottom as will secure them from damage by blasting, but from the end of such ladderways, portable ladders shall be extended to the bottom of the shaft.

(h) All stations or levels shall have a passageway around the working shaft so that crossing over the hoisting compartments may be avoided. All sumps shall be securely planked over. At all shaft stations a gate or a guard rail must be provided and kept in place across the shaft, except when cage, skip, or bucket is being loaded, but this prohibition shall not forbid the temporary removal of the gate or rail for the purpose of repairs or other operations, if proper precaution to prevent danger to persons is taken.

(i) The top of every mining shaft shall be protected by a substantial gate, guard rail, or chain.

(j) Winzes or raises shall not be started in the direct line of a drift, but shall be offset from the drift. And every winze or raise now opening from below directly on any drift or tunnel, traveled by men, shall be covered with a grizzly or by doors.

(k) The opening of such offset winze shall be protected by a fence or guard rail not less than three feet or more than four feet in height above the level of the drift.

(l) Existing winzes, sumps, and all other openings in the floor of a drift or stope must be kept covered by a substantial hatch, or planking, or provided with guard rails.

Sec. 4076. An adequate amount of pure air shall be made to circulate through and into the shafts, winzes, levels, and other working places of every mine, in such quantity as will maintain the same in a fit state for working and passing therein, and in all dry places where the operation of a power drill will produce dust, all power drills used therein shall be equipped with a spraying device, and an adequate spraying system shall be installed and used to settle all dust or gases

that may be created. The total quantity of carbon dioxide present in the air shall not exceed 0.25 per cent by volume, except that at any place where firing of explosives has been done a higher percentage of carbon dioxide shall be permissible for a reasonable length of time after the last explosion, and the operator shall provide respirators whenever needed. Waste timber in underground workings shall not be piled up and permitted to decay, but shall be removed as soon as practicable.

Sec. 4077. (a) Stationary lights, deemed sufficient by the mine inspector or deputy thereof, shall be provided during working hours at all stations in vertical and inclined shafts during the time while in actual use; and also at all stations in levels where hoisting or hauling is effected by means of machinery; and also at night at all working places on the surface.

(b) No candles shall be left burning in a mine, or any part of a mine, when the person using the candle departs from his work for the day.

Sec. 4078. (a) When advancing a drift, adit, level, or incline toward a mine working that is suspected to be filled with water, a bore hole must be kept at least twenty feet in advance of the breast of the drive; and also if necessary in directions laterally from the course of the drive. Such a working place must not exceed six feet in width and such additional precautionary measures shall be taken as may be deemed necessary by the mine inspector or deputy to obviate the danger of a sudden breaking through of water.

(b) No raise shall be allowed to approach within ten feet of any portion of a winze, or a stope, in which there is a dangerous accumulation of water, unless such winze or stope be first unwatered by bailing or pumping, or by means of a bore from the raise.

(c) In every mine where, in the opinion of the mine inspector, there is a danger of a sudden inrush of water, such additional raises, drifts, or other workings shall be constructed as are necessary to insure the escape of workmen from the lower workings; and all sumps, and places for the storage of water in mines, shall be so constructed as to prevent leakage, as far as possible, and insure the safety of the men working below the same.

(d) It shall not be lawful for any operator to impound water or to keep water impounded within any mine in which men are working below the water so impounded, in such manner as to endanger the safety of such men, unless said water be impounded by a dam or dams, or wall or walls, approved by the mine inspector or a deputy mine inspector.

Sec. 4079. Boys under eighteen years of age shall not be employed underground in a mine.

Sec. 4080. No intoxicated person shall be allowed to enter a mine. No intoxicated person shall be allowed to remain in a mine. No intoxicating liquors shall be taken into a mine.

Sec. 4081. Strangers and visitors shall not be allowed underground unless accompanied by the owner, official or employee deputized to accompany them.

Sec. 4082. Every mine employing twenty-five men or more shall maintain and suitably equip a heated washroom and changeroom, immediately contiguous to said mine, which shall at all times be open to employees.

Sec. 4083. No person shall knowingly injure or destroy a water-gauge, barometer, air-course, brattice, or other equipment, or machinery of any mine; nor, unless lawfully authorized so to do, obstruct or open an air-way, handle or disturb any part of the machinery of the hoisting engine of the mine, open the door of a mine and neglect to close it, endanger the mine or those working therein, disobey an order given in pursuance of law, or do a wilful act whereby the lives or health of persons working in such mine, or the security of a mine, or the machinery connected therewith, may be endangered.

Sec. 4084. Notices shall be placed by the superintendent, or under his direction by the mine foreman or shift boss, at the entrance to any working place deemed dangerous, and at the entrance to old or abandoned workings; and no person other than those authorized by the operator, manager, or superintendent, shall remove or go beyond any caution-board or danger signal so placed.

Sec. 4085. At any mine employing twenty-five or more men underground, the operator shall provide, and keep in a readily accessible place, at least two fire fighting helmets in condition to be used in case of emergency; also the operator or superintendent of such mine shall provide training for a crew in the use of said helmets, and tests at least once monthly of the helmets by the actual use thereof by such crew shall be made.

Sec. 4086. (a) Every shaft and each compartment thereof used for hoisting, if exceeding fifty feet in depth, and not exempted in writing by the mine inspector, shall be provided with an efficient means of interchanging distinct and definite signals between the top of the shaft and the lowest level from which hoisting is being done, and the various intermediate levels for the time being in use. The signalling apparatus shall be either wire or cable, actuating a bell or whistle, or a speaking tube, or a telephone, or an electric system, or two or more of these may be used in conjunction.

(b) In mines where a station tender is employed no person shall ring any signal bell except the station tender, except in case of danger, or when the main shaft is being sunk.

Sec. 4087. Electric trolley wires in all mines now equipped with same shall be at least six and one-half feet above the

floor and in all mines hereafter so equipped at least seven feet above the floor.

Sec. 4088. The following signal code shall be used in all mines:

1 bell, stop immediately if in motion.
1 bell, hoist muck.
1 bell, release cage, skip, or bucket.
2 bells, lower.
3-1 bells, hoist men. (NOTE: If bells rung slowly,
3-2 bells, lower men. (move slowly.
5 bells, blasting or ready to shoot signal.

This is a caution signal and if the engineer is prepared to accept it he must acknowledge by raising the bucket or cage a few feet then lowering it again. After accepting this signal the engineer must be prepared to hoist men away from the blast as soon as the signal, 1 bell, is given and must accept no other signal in the meantime.

4 bells, steam on or off.
6 bells, air on or off.
7 bells, danger signal. Followed by station signal, calls cage to that station.

This signal takes precedence over all other except an accepted blasting signal.

STATION SIGNALS.

Bells	Name of Station	Bells	Name of Station
1-2	Collar of Shaft	4-2	10
1-3	1	4-3	11
1-4	2	4-4	12
1-5	3	4-5	13
2-1	4	5-1	14
2-2	5	5-2	15
2-3	6	5-3	16
2-4	7	5-4	17
2-5	8	5-5	18
4-1	9		

Station signal must be given before hoisting or lowering signal.

The engineer shall not move a cage, skip, or bucket, unless he understands the signal.

One copy of this signal code shall be posted on the head frame, one at the east station, and one before the engineer.

Sec. 4089. Special signals in addition to the above may be used at any mine, provided they are easily distinguished by their sound, or otherwise, from the foregoing code, and do not interfere with it in any way.

Sec. 4090. It shall be the duty of the superintendent of every mine within the provisions of this chapter to keep at all

times in the office of said mine and in the timekeeper's office thereof, in an accessible place and subject to inspection by all workmen and persons interested in the same, at least one printed copy of this chapter.

Sec. 4091. Any person who violates any of the provisions of this chapter where other penalty is not expressly provided shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars, or imprisonment in the county jail not less than thirty days or not to exceed one year, or both such fine and imprisonment.

AN ACT VALIDATING MINING LOCATIONS.

Section 1. That no relocation of an abandoned Mining Claim made prior to the 12th day of March, 1907, shall be held to be invalid upon the ground that the notice of relocation did not state that said claim was in part or in whole an abandoned mining claim.

Section 2. This Act shall take effect and be in force from and after its passage.

Approved March 18, 1909.

MISCELLANEOUS PROVISIONS OF ARIZONA LAW AFFECTING MINING CLAIMS.

The Probate Laws provide for summary sales of mining claims and interests therein belonging to Estates, by order of the Probate Court, and for the granting of options of purchase by guardians of minors.

The chapter on Injunctions provides that no injunction against operating mining claims shall be granted by the courts except upon previous notice to owners.

The chapter on Mechanic's Liens provides that all persons who may furnish material of any kind used upon any mining claim, and to whom any sum for labor may be due shall have a lien upon such mining claims for such amounts.

AMENDED 1913

ARIZONA FORM OF LOCATION NOTICE.

NOTICE OF MINING LOCATION

Lode Claim

To All Whom It May Concern:

This mining claim, the name of which is the.....mining claim, situate on lands belonging to the United States of Amer-

ica, and in which there are valuable mineral deposits, was entered upon and located for the purposes of exploration and purchase by..... ..... (Locator must insert either "a citizen of the United States," or "who has declared his intention to become a citizen of the United States") the undersigned, on the.....day of....., 19....

claim.....feet, in a.....direction and.....

feet in a.....direction from the center of the discovery shaft, at which this notice is posted, lengthwise of the claim, together with.....feet in width of the surface grounds, on each side of the center of said claim. The general course of the lode deposit and premises is from the.....to the.....

The claim is situated and located in the.....mining district, in.....County, in the Territory of Arizona, about.....in a direction from.....

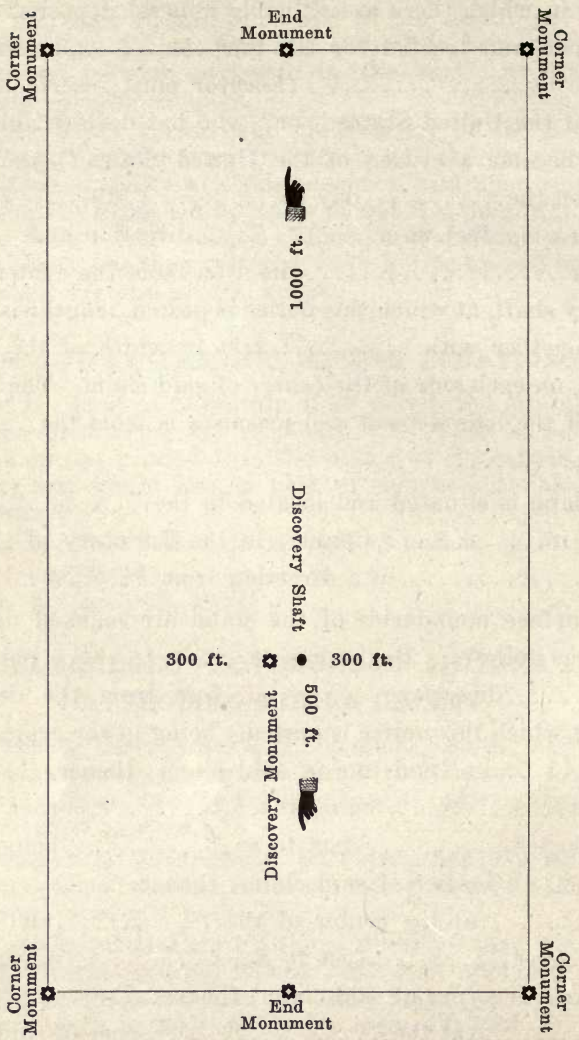
The surface boundaries of the claim are marked upon the ground as follows: Beginning at.....at a point in a .....direction.....feet from the discovery shaft (at which this notice is posted,) being in the center of the .....end line of said claim; thence.....

feet to a....., being the.....corner of said claim; thence.....feet to a.....being at the .....corner of said claim; thence.....feet to a.....at the center of the.....end of said claim; thence.....feet to a....., being at the .....corner of said claim; thence.....feet to a .....at the.....corner of said claim; thence.....feet to the place of beginning.

All done under the provisions of Chapter Six, of Title XXXII, of the Revised Statutes of the United States, and of the laws of the State of Arizona.

Dated and posted on the ground this.....day of ....., 19....

Witness..... .....



This diagram is to give locator a general idea of plan of location under the new law. The Discovery Shaft can be in the center of claim or any distance from either end desired. In the diagram it is placed 500 feet from one end and 1000 feet from the other. Commence description of claim at a center end monument, giving its distance and direction from center of Discovery Shaft; thence bound the claim in either direction. In description be careful to state locality of claim with reference to some natural object, or permanent monument, as will identify the claim.

ARIZONA

AFFIDAVIT OF LABOR PERFORMED AND IMPROVEMENTS MADE.

State of Arizona,
County of.....—ss.
....., being duly sworn, deposes and says that he is a citizen of the United States and more than twenty-one years of age, and resides at.....in .....County, State of Arizona, and is personally acquainted with the mining claim known as..... .....mining claim, situate in.....Mining District, County of.....State of Arizona, the location notice of which is recorded in the office of the County Recorder of said County, in Book.....of records of Mines, at page.....; that between the.....day of....., A. D. 19..., and the.....day of....., A. D. 19..., at least.....dollars' worth of work and improvements were done and performed upon said claim, not including the location work of said claim. Such work and improvements were made by and at the expense of..... .....
.....
owner..of said claim, for the purpose of complying with the law of the United States pertaining to assessment of annual work, and .....
.....
.....
.....
were the men employed by said owner..and who labored upon said claim, did said work and improvements, the same being as follows, to-wit: .....
.....
.....
.....
.....
.....

Subscribed and sworn to before me this.....day of ....., A. D. 19....

.....
Notary Public.

(My commission expires.....)

AFFIDAVIT OF LABOR PERFORMED AND IMPROVEMENTS MADE ON GROUP OF CLAIMS.

State of Arizona, County of.....ss.

....., being duly sworn deposes and says that he is a citizen of the United States and more than twenty-one years of age, and resides at..... in.....County of State of Arizona, and is personally acquainted with those certain mining claims and premises located and known as the.....mining claim or lode, and the.....mining claim or lode, both situated in the Vulture Mining District, County of Maricopa and State of Arizona, and notices of location of which mining claims and premises are recorded in the office of the County Recorder of said County of Maricopa, as follows, to-wit:.....

The location notice of said ..... mining claim in Book....., page....., of Records of Mines, and the location notice of said.....mining claim in Book.....of Records of Mines at page..... That between the.....day of..... A. D. 19..., and the.....day of....., A. D. 19..., at least two hundred (200) dollars' worth of work and improvements were done and performed upon said .....mining claims, not including the location work of either of said.....or..... mining claims, which said two hundred (200) dollars' worth of work was performed and done for the purpose of developing both of said mining claims and to develop each of said mining claims, as both of said mining claims adjoin each other and are extensions of each other and the two said mining claims constitute one group; and the tendency of said work was to develop each and all of said mining claims; That said work and improvements were made by and at the expense of....., one of the owners of said premises and mining claims for the purpose of complying with the laws of the United States and of the State of Arizona, pertaining to assessment or annual work, and.....

.....

were the men employed by the said owner and who labored upon said mining claims and premises and who did said work and improvements, and said work so done upon said premises

is described as follows, to-wit:.....

.....

Subscribed and sworn to before me this.....day of ....., A. D. 1904.

My commission expires.....

.....

Notary Public in and for the County of ....., State of Arizona.

ARIZONA.

NOTICE OF LOCATION OF PLACER CLAIM.

For this form use the same given under California Laws.

All location notices in this book can be purchased from the author.

ARIZONA.

NOTICE OF FORFEITURE TO CO-OWNER.

For this form see end of U. S. Mining Laws.

J. NELSON NEVIUS

Mining Geologist and Engineer

Examination of Mines and Prospects for Owners or Purchasers.

Supervision of Development and Management for Companies.

General Consulting Practice.

Thoroughly experienced in Mexican work.

CODES:

BEDFORD McNEILL or WESTERN UNION

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809 SOUTH LOS ROBLES AVENUE

PASADENA, CALIFORNIA

(FAIR OAKS 1179)

CALIFORNIA MINING LAWS

(See also U. S. Mining Laws.)

CIVIL CODE.

Sec. 586. (Civil Code.) Any corporation organized in this State for the purpose of mining or carrying on mining operations in or without this State, may establish and maintain agencies in other states of the United States, for the transfer and issuing of their stock; and a transfer or issue of the same at any such transfer agency, in accordance with the provisions of its by-laws, is valid and binding as fully and effectually for all purposes as if made upon the books of such corporation at its principal office within this state. The agencies must be governed by the by-laws and the directors of the corporation.

142 Cal. 391; 127 Cal. 605; 92 Cal. 503.

Sec. 587. (Civil Code.) All stock of any such corporation, issued at a transfer agency, must be signed by the president and secretary of the corporation, and countersigned at the time of its issue by the agent having charge of the transfer agency. No stock must be issued at a transfer agency unless the certificate of stock, in lieu of which the same is issued, is at the time surrendered for cancellation.

Sec. 587a. (Civil Code.) It is lawful for two or more corporations formed or that may hereafter be formed, under the laws of this state, for mining purposes, which own or possess mining claims or lands adjoining each other, or lying in the same vicinity, to consolidate their capital stock, debts, property, assets, and franchises, in such manner and upon such terms as may be agreed upon by the respective boards of directors or trustees of such corporations so desiring to consolidate their interests; but no such consolidation must take place without the written consent of the stockholders representing two-thirds of the capital stock of each corporation, and no such consolidation can, in any way, relieve such corporations, or the stockholders thereof, from any and all just liabilities; and in case of such consolidation, due notice of the same must be given, by advertising, for one month, in at least one newspaper in the county where the said mining property is situated, if there is one published therein, and also in one newspaper published in the county where the principal place of business of any of said corporation is. And when the consolidation is completed, a certificate thereof, containing the manner and terms of such consolidation, must be filed in the office of the county clerk of the county in which the original certificate of incorporation of each of said corporations is filed, and a copy thereof must be filed

in the office of the secretary of state; such certificate must be signed by a majority of each board of trustees or directors of the original corporations, and it is their duty to call, within thirty days after the filing of such certificate, a meeting of the stockholders of all of said corporations so consolidated, to elect a board of trustees or directors for the consolidated corporation, for the year thence next ensuing; and to cause notice of the time and place fixed for such meeting to be mailed to each stockholder of each of such corporations at his last known place of residence or business at least ten days before the time fixed for such meeting. The said certificate must also contain all the requirements prescribed by section two hundred and ninety.

81 Cal. 378; 104 U. S. 450.

Sec. 588. (Civil Code.) It is the duty of the secretary of every corporation formed for the purpose of mining, or conducting mining in California, whether such corporation be formed and organized under the laws of the State of California or of any other state, territory, or foreign country, to keep at some place within the State of California an office, and in such office to keep a complete set of books showing all receipts and expenditures of such corporation, the sources of such receipts, and the objects of such expenditures, and also all transfers of stock. All books and papers must, at all times during business hours, be open to the inspection of any stockholder. He is entitled to be accompanied by an expert, and to make copies or extracts from any such books or papers. He may, at reasonable hours, examine such mining property, accompanied by an expert, take samples, and make such other examination as he may deem necessary. It is the duty of the directors, on the second Monday of each and every month, to cause to be made an itemized account or balance sheet for the previous month, embracing a full and complete statement of all disbursements and receipts, showing from what sources such receipts were derived, and to whom and for what object or purpose such disbursements or payments were made; also all indebtedness or liabilities incurred or existing at the time, and for what the same were incurred, and the balance of money, if any, on hand. Such account or balance sheet must be verified under oath by the president and secretary, and posted in some conspicuous place in the office of the company. It is the duty of the superintendent, on the first Monday of each month, to file with the secretary an itemized account, verified under oath, showing all receipts and disbursements made by him for the previous month, and for what said disbursements were made. Such account must also contain a verified statement showing the number of men employed under him, and for what purpose, and the rate of wages paid to each. He must attach to such account a full

and complete report, under oath, of the work done in said mine, the amount of ore extracted, from what part of mine taken, the amount sent to mill for reduction, its assay value, the amount of bullion received, the amount of bullion shipped to the office of the company or elsewhere, and the amount, if any, retained by the superintendent. It is his duty to forward to the office of the company a full report, under oath, of all discoveries of ores or mineral-bearing quartz made in said mine, whether by boring, drifting, sinking or otherwise, together with the assay value thereof. All accounts, reports and correspondence from the superintendent must be kept in some conspicuous place in the office of said company, open to the inspection of all stockholders.

92 Cal. 580; 92 Cal. 503; 119 Cal. 358; 81 Cal. 231; 51 Fed. 61.

Sec. 589. (Civil Code.) Any stockholder of a corporation formed under the laws of this state for the purpose of mining, is entitled to visit, accompanied by his expert, and examine the mine or mines owned by such corporation, and every part thereof, at any time he may see fit; and when such stockholder applies to the president of such corporation, he must immediately cause the secretary thereof to issue and deliver to such applicant an order, under the seal of the corporation, directed to the superintendent, commanding him to show and exhibit such parts of said mine or mines as the party named in said order may desire to visit and examine. It is the duty of the superintendent, on receiving such order, to furnish such stockholder every facility for making a full and complete inspection of said mine or mines, and the workings therein, and to accompany said stockholder either in person, or to furnish some person familiar with said mine or mines to accompany him in his visit to and through such mine or mines, and every part thereof. If the superintendent fails to obey such order, such stockholder is entitled to recover, in any court of competent jurisdiction, against the corporation, the sum of one thousand dollars, and traveling expenses to and from the mine, as liquidated damages, together with costs of suit. In case of such refusal, it is the duty of the directors of the corporation forthwith to remove the officer so refusing, and thereafter he must not be employed directly or indirectly by the corporation, nor must any salary be paid to him.

Sec. 590. (Civil Code.) In case of the refusal or neglect of the president to cause to be issued by the secretary the order mentioned in section five hundred and eighty-nine, such stockholder is entitled to recover against said president the sum of one thousand dollars and costs, as provided in the last section. If the directors fail to have the reports and accounts current made and posted, as provided in section five hundred and

eighty-eight, they are liable, either severally or jointly, to an action by any stockholder complaining thereof, and on proof of such refusal or failure, he may recover judgment for actual damages sustained by him, with costs of suit. Each of such defaulting directors is also liable to removal for such neglect.

72 Cal. 305; 89 Cal. 52; 119 Cal. 358; 135 Cal. 375; 92 Cal. 580.

Sec. 661. (Civil Code.) Fixtures attached to mines. Sluice-boxes, flumes, hose, pipes, railway tracks, cars, blacksmith shops, mills and all other machinery or tools used in working or developing a mine, are to be deemed affixed to the mine. (En. March 21, 1872.)

76 Cal. 578; 118 Cal. 635; 118 Cal. 148; 14 Cal. 59; 24 Pac. 920.

Sec. 819. (Civil Code.) A tenant for years or at will, unless he is a wrong-doer by holding over, may occupy the buildings, take the annual product of the soil, work mines and quarries open at the commencement of his tenancy.

101 Cal. 425; 115 Cal. 622.

Sec. 1159. (Civil Code.) Judgments may be recorded without acknowledgment. Judgments affecting the title to or possession of real property authenticated by the certificate of the clerk of the court in which such judgments were rendered (and notices of location of mining claims), may be recorded without acknowledgment, certificate of acknowledgment or further proof. The record of all notices of location of mining claims heretofore made in the proper office without acknowledgment, or certificate of acknowledgment, or other proof, shall have the same force and effect for all purposes as if the same had been duly acknowledged, or proved and certified as required by law. Affidavits showing work or posting of notices upon mining claims may also be recorded in the recorder's office of the county where such mining claims are situated. (En. March 21, 1872. Am'd. 1897, 97.)

129 Cal. 361; 83 Cal. 187.

Sec. 1424. (Civil Code.) Where hydraulic mining can be carried on. The business of hydraulic mining may be carried on within the State of California wherever and whenever the same can be carried on without material injury to the navigable streams, or the lands adjacent thereto. (En. Stats. 1893, 337.)

81 Fed. 243; 88 Fed. 664; 79 Cal. 289; 66 Cal. 138.

Sec. 1425. (Civil Code.) Meaning of hydraulic mining. Hydraulic mining within the meaning of this title, is mining by means of the application of water, under pressure, through a

nozzle, against a natural bank. (En. Stats. 1893, 337.)
111 Cal. 571; 121 Cal. 662; 137 Cal. 432; 132 Cal. 297; 124 Cal. 186.

MINING ACT OF 1909.

Title X, Part IV, Division II (New).
(In effect from and after July 1, 1909. Stats. 1909, Chap. 225.)

MINING CLAIMS.

Sec. 1426. Mining claims; how located.
Sec. 1426a. Boundaries.
Sec. 1426b. Recordation.
Sec. 1426c. Placer claims; how located.
Sec. 1426d. Recordation.
Sec. 1426e. Tunnel rights; how located.
Sec. 1426f. Boundaries.
Sec. 1426g. Recordation.
Sec. 1426h. Defective location; how remedied.
Sec. 1426i. When survey and certificate part of record.
Sec. 1426j. Mill site; location of.
Sec. 1426k. Recordation.
Sec. 1426l. Improvements.
Sec. 1426m. Value of improvements; how established.
Sec. 1426n. Recordation fee.
Sec. 1426o. Notice of delinquency; how given.
Sec. 1426p. Record of location as evidence.
Sec. 1426q. Certified copies of records as evidence.
Sec. 1426r. Construction.
Sec. 1426s. Disqualification for failure to perform development work.

Sec. 1426. (Mining claims; how located.) Any person, a citizen of the United States, or who has declared his intention to become such, who discovers a vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposit, may locate a claim upon such vein or lode, by defining the boundaries of the claim, in the manner hereinafter described, and by posting a notice of such location, at the point of discovery, which notice must contain: First—The name of the lode or claim. Second—The name of the locator or locators. Third—The number of linear feet claimed in length along the course of the vein, each way from the point of discovery, with the width on each side of the center of the claim, and the general course of the vein or lode, as near as may be. Fourth—The date of location. Fifth—Such a description of the claim by reference to some natural object, or permanent monument, as will identify the claim located.

Sec. 1426a. (Boundaries.) The locator must define the boundaries of his claim so that they may be readily traced, and

in no case shall the claim extend more than fifteen hundred feet along the course of the vein or lode, nor more than three hundred feet on either side thereof, measured from the center line of the vein at the surface.

Sec. 1426b. (Recordation of.) Within thirty days after the posting of his notice of location upon a lode mining claim, the locator shall record a true copy thereof in the office of the county recorder of the county in which such claim is situated, for which service the county recorder shall receive a fee of one dollar.

Sec. 1426c. (Placer claims; how located.) The location of a placer claim shall be made in the following manner: By posting thereon, upon a tree, rock in place, stone, post or monument, a notice of location, containing the name of the claim, name of locator or locators, date of location, number of feet or acreage claimed, such a description of the claim by reference to some natural object or permanent monument as will identify the claim located, and by marking the boundaries so that they may be readily traced; **provided,** that where the United States survey has been extended over the land embraced in the location, the claim may be taken by legal subdivisions and no other reference than those of said survey shall be required and the boundaries of a claim so located and described need not be staked or monumented. The description by legal subdivisions shall be deemed the equivalent of marking.

Sec. 1426d. (Recordation of.) Within thirty days after the posting of the notice of location of a placer claim, the locator shall record a true copy thereof in the office of the county recorder of the county in which such claim is situated, for which service the recorder shall receive a fee of one dollar.

Sec. 1426e. (Tunnel right; how located.) The locator of a tunnel right or location shall locate his tunnel right or location by posting a notice of location at the face or point of commencement of the tunnel, which must contain: First—The name of the locator or locators. Second—the date of the location. Third—The proposed course or direction of the tunnel. Fourth—A description of the tunnel, with reference to some natural object or permanent monument as shall identify the claim or tunnel right.

Sec. 1426f. (Boundaries.) The boundary lines of the tunnel shall be established by stakes or monuments placed along the lines at an interval of not more than six hundred feet from the face or point of commencement of the tunnel to the terminus of three thousand feet therefrom.

Sec. 1426g. (Recordation of.) Within thirty days after the posting of the notice of location of the tunnel right or location, the locator shall record a true copy thereof in the office of the

county recorder of the county in which such claim is situated, for which service the recorder shall receive a fee of one dollar.

Sec. 1426h. (Defective location; how remedied.) If at any time the locator of any mining claim heretofore or hereafter located, or his assigns, shall apprehend that his original location notice was defective, erroneous, or that the requirements of the law had not been complied with before filing; or in case the original notice was made prior to the passage of this act, and he shall be desirous of securing the benefit of this act, such locator, or his assigns, may file an additional notice, subject to the provisions of this act; **provided,** that such amended location notice does not interfere with the existing rights of others at the time of posting and filing such amended location notice, and no such amended location notice or the record thereof, shall preclude the claimant, or claimants, from proving any such title as he or they may have held under previous locations.

Sec. 1426i. (When survey and certificate part of record.) Where a locator, or his assigns, has the boundaries and corners of his claim established by a United States deputy mineral survey, or a licensed surveyor of this state, and his claim connected with the corner of the public or minor surveys of an established initial point, and incorporates into the record of the claim, the field notes of such survey, and attaches to and files with such location notice a certificate of the surveyor, setting forth: First, that said survey was actually made by him, giving the date thereof. Second, the name of the claim surveyed and the location thereof. Third, that the description incorporated in the declaratory statement is sufficient to identify; such survey and certificate becomes a part of the record, and such record is prima facie evidence of the facts therein contained.

Sec. 1426j. (Mill site; how located.) The proprietor of a vein or lode claim or mine, or the owner of a quartz mill or reduction works, or any person qualified by the laws of the United States, may locate not more than five acres of non-mineral land as a mill site. Such location shall be made in the same manner as hereinbefore required for locating placer claims.

Sec. 1426k. (Recordation.) The locator of a mill site claim or location shall, within thirty days from the date of his location, record a true copy of his location notice with the county recorder of the county in which such location is situated, for which service the recorder shall receive a fee of one dollar.

Sec. 1426l. (Improvements.) The amount of work done or improvements made during each year to hold possession of a mining claim shall be that prescribed by the laws of the United States, to-wit: One hundred dollars annually.

Sec. 1426m. (Value of improvements; how established.) Whenever mine owner, company or corporation shall have performed the labor and made the improvements required by law upon any mining claim, the person in whose behalf such labor was performed or improvements made, or someone in his behalf, shall, within thirty days after the time limited for performing such labor or making such improvements, make and have recorded by the county recorder, in books kept for that purpose, in the county in which such mining claim is situated, an affidavit setting forth the value of labor or improvements made, the name of the claim, and the name of the owner or claimant of said claim at whose expense the same was made or performed. Such affidavit, or a copy thereof, duly certified by the county recorder, shall be prima facie evidence of the performance of such labor or the making of such improvements, or both.

Sec. 1426n. (Recordation fee.) For recording the affidavit herein required, the county recorder shall receive a fee of fifty cents.

AMENDED-1945

Sec. 1426o. (Notice of delinquency; how given.) Whenever a co-owner or co-owners of a mining claim shall give to a delinquent co-owner or co-owners the notice in writing or notice by publication provided for in section 2324, Revised Statutes of the United States, an affidavit of the person giving such notice, stating the time, place, manner of service, and by whom and upon whom such service was made, shall be attached to a true copy of such notice, and such notice and affidavit must be recorded in the office of the county recorder, in books kept for that purpose, in the county in which the claim is situated, within ninety days after the giving of such notice; for the recording of which said recorder shall receive the same fees as are now allowed by law for recording deeds; or if such notice is given by publication in a newspaper, there shall be attached to a printed copy of such notice an affidavit of the printer or his foreman, or principal clerk of such paper, stating the date of the first, last and each insertion of such notice, therein, and where the newspaper was published during that time, and the name of such newspaper. Such affidavit and notice shall be recorded as aforesaid, within one hundred and eighty days after the first publication thereof. The original of such notice and affidavit, or a duly certified copy of the record thereof, shall be prima facie evidence that the delinquent mentioned in section 2324 has failed or refused to contribute his proportion of the expenditure required by that section, and of the service of publication of said notice; **provided**, the writing or affidavit hereinafter provided for is not of record. If such delinquent shall, within the ninety days required by section 2324, aforesaid, contribute to his co-owner or co-

owners, his proportion of such expenditures, and also all costs of service of the notice required by this section, whether incurred for publication charges, or otherwise, such co-owner or co-owners shall sign and deliver to the delinquent or delinquents a writing, stating that the delinquent or delinquents by name has within the time required by section 2324, aforesaid, contributed his share for the year....., upon the..... mine, and further stating therein the district, county and state wherein the same is situated, and the book and page where the location notice is recorded, if said mine was located under the provisions of this act; such writing shall be recorded in the office of the county recorder of said county, for which he shall receive the same fees as are now allowed by law for recording deeds. If such co-owner or co-owners shall fail to sign and deliver such writing to the delinquent or delinquents within twenty days after such contribution, the co-owner or co-owners so failing as aforesaid shall be liable to the penalty of one hundred dollars to be recovered by any person for the use of the delinquent or delinquents in any court of competent jurisdiction. If such co-owner or co-owners fail to deliver such writing within said twenty days, the delinquent, with two disinterested persons having personal knowledge of such contribution, may make affidavit setting forth in what manner, the amount of, to whom, and upon what mine, such contribution was made. Such affidavit, or a record thereof, in the office of the county recorder, of the county in which such mine is situated, shall be prima facie evidence of such contribution.

Sec. 1426p. (Record of location as evidence.) The record of any location of a mining claim, mill site or tunnel right, in the office of the county recorder, as herein provided shall be received in evidence, and have the same force and effect in the courts of the state as the original notice.

Sec. 1426q. (Certified copies of records as evidence.) Copies of the records of all instruments required to be recorded by the provisions of this act, duly certified by the recorder, in whose custody such records are, may be read in evidence, under the same circumstances and rules as are now, or may be hereafter provided by law, for using copies of instruments relating to real estate, duly executed or acknowledged or proved and recorded.

1426r. (Construction existing; mining districts and regulations not affected.) The provisions of this act shall not in any manner be construed as affecting or abolishing any mining district or the rules and regulations thereof within the State of California.

Sec. 1426s. (Disqualification for failure to perform development work.) The failure or neglect of any locator of a mining

claim to perform development work of the character, in the manner and within the time required by the laws of the United States, shall disqualify such locators from relocating the ground embraced in the original location or mining claim or any part thereof under the mining laws, within three years after the date of his original location and any attempted relocation thereof by any of the original locators shall render such location void.

Sec. 2. All acts and parts of acts in conflict with this act, are hereby repealed. Civ. Code, 1909.

Sec. 2511. When a mining partnership exists. A mining partnership exists when two or more persons who own or acquire a mining claim for the purpose of working it and extracting the mineral therefrom actually engage in working the same. (En. March 21, 1872.)

107 Cal. 504; 128 Cal. 120; 121 Cal. 213; 127 Cal. 520; 89 Cal. 367; 112 Cal. 380.

Sec. 2512. (Civil Code.) Express agreement not necessary to constitute. An express agreement to become partners or to share the profits and losses of mining is not necessary to the formation or existence of a mining partnership. The relation arises from the ownership of shares or interests in the mine and working the same for the purpose of extracting the minerals therefrom. (En. March 21, 1872.)

127 Cal. 520; 42 Cal. 367; 107 Cal. 504.

Sec. 2513. (Civil Code.) Profits and losses, how shared. A member of a mining partnership shares in the profits and losses thereof in the proportion which the interest or share he owns in the mine bears to the whole partnership capital or whole number of shares. (En. March 21, 1872.)

89 Cal. 367.

Sec. 2514. (Civil Code.) Lien of partners. Each member of a mining partnership has a lien on the partnership property for the debts due the creditors thereof, and for money advanced by him for its use. This lien exists notwithstanding there is an agreement among the partners that it must not. (En. March 21, 1872.)

144 Cal. 771; 89 Cal. 367; 66 Cal. 577.

Sec. 2515. (Civil Code.) Mine-Partnership property. The mining ground owned and worked by partners in mining, whether purchased with partnership funds or not, is partnership property. (En. March 21, 1872.)

24 Cal. 569; 28 Cal. 569.

Sec. 2516. Partnership not dissolved by sale of interest. One of the partners in a mining partnership may convey his

interest in the mine and business without dissolving the partnership. The purchaser from the date of his purchase becomes a member of the partnership. (En. March 21, 1872.)

112 Cal. 380; 42 Cal. 367; 19 Cal. 120.

Sec. 2517. (Civil Code.) Purchaser takes, subject to liens, unless, etc. A purchaser in an interest in the mining ground of a mining partnership takes it subject to the liens existing in favor of the partners for debts due all creditors thereof, or advances made for the benefit of the partnership, unless he purchased in good faith, for a valuable consideration, without notice of such lien. (En. March 21, 1872.)

Sec. 2518. (Civil Code.) Takes with notice of lien, when. A purchaser of the interest of a partner in a mine when the partnership is engaged in working it, takes with notice of all liens resulting from the relation of the partners to each other and to the creditors of the partnership. (En. March 21, 1872.)

42 Cal. 180; 42 Cal. 636.

Sec. 2519. (Civil Code.) Contract in writing, when binding. No member of a mining partnership or other agent or manager thereof can, by a contract in writing, bind the partnership, except by express authority derived from the members thereof. (En. March 21, 1872.)

42 Cal. 367; 42 Cal. 180; 23 Cal. 198.

Sec. 2520. (Civil Code.) Owners of majority of shares govern. The decision of the members owning a majority of the shares or interests in a mining partnership binds it in the conduct of its business. (En. March 21, 1872.)

89 Cal. 367; 42 Cal. 180.

Sec. 2955. This section provides that mining machinery may be chattel mortgaged.

CODE OF CIVIL PROCEDURE.

Sec. 690. (Code of Civil Proc.) Exemption from Executions. 5. The cabin or dwelling of a miner, not exceeding in value the sum of five hundred dollars; also his sluices, pipes, hose, windlass, derrick, cars, pumps, tools, implements, and appliances necessary for carrying on any mining operations, not exceeding in value the aggregate sum of five hundred dollars; and two horses, mules, or oxen with their harness, and food for such horses, mules or oxen for one month, when necessary to be used on any whim, windlass, derrick, car pump, or hoisting gear; and also his mining claim, actually worked by him, not exceeding in value the sum of one thousand dollars.

Sec. 738. Code of Civil Proc., provides for an action to quiet title, with right of trial by jury. Under this section an action

may be brought to quiet title to mining property by any person in possession.

Sec. 742. (Code of Civil Proc.) An order may be made to allow a party to survey and measure the land in dispute. The court in which an action is pending for the recovery of real property, or for damages for an injury thereto, or a judge thereof, may, on motion, upon notice by either party, for good cause shown, grant an order allowing to such party the right to enter upon the property and make survey and measurement thereof, and of any tunnels, shafts, or drifts therein, for the purpose of the action, even though entry for such purpose has to be made through other lands, belonging to parties to the action. (En. March 11, 1872. Am'd 1880, 11.)

Sec. 743. (Code of Civil Proc.) Order, what to contain, and how served. If unnecessary injury done, the party surveying to be liable therefor. The order must describe the property, and a copy thereof must be served on the owner or occupant; and thereupon such party may enter upon the property, with necessary surveyors and assistants, and make such survey and measurement; but if any unnecessary injury be done to the property, he is liable therefor. (En. March 11, 1872.)

Sec. 748. (Code of Civil Proc.) Mining Claims, actions concerning to be governed by local rules. In actions respecting mining claims, proofs must be admitted of the customs, usages or regulations established and in force at the bar or diggings embracing such claim; and such customs, usages or regulations, when not in conflict with the laws of this state, must govern the decision of the action. (En. March 11, 1872.)

69 Cal. 383; 31 Cal. 393.

Secs. 1183 to 1203. (Code of Civil Proc.) These sections provide for liens for mechanics, material men, contractors, miners and others for labor done on mining claims or material furnished, etc., for recording of such liens and their enforcement in court.

Reference is here made to said sections for terms of contract, etc.

Secs. 1204 to 1207, inclusive. (Code of Civil Proc.) Provide, in cases of assignment of mining companies, for liens on mining claims and procedure to collect same.

EMINENT DOMAIN.

Sec. 1238. (Code of Civil Proc.) Purposes for which it may be exercised. Subject to the provisions of this title, the right of eminent domain may be exercised in behalf of the following public uses.

5. Roads, tunnels, ditches, flumes, pipes and dumping places for working mines; also outlets, natural or otherwise, for the flow, deposit or conduct of tailings or refuse matter from mines; also an occupancy in common by the owners or possessors of

different mines of any place for the flow, deposit or conduct of tailings or refuse matter from their several mines.

6. By-roads leading from highways to residences, farms, mines, mills, factories and buildings for operating machinery, or necessary to reach any property used for public purposes.

12. Canals, reservoirs, dams, ditches, flumes, aqueducts, pipes and outlets, natural or otherwise, from sources other than a navigable lake, for supplying, storing and discharging water for or in connection with the operation of machinery for the purposes of generating and transmitting electricity for the supply of mines, quarries, railroads, tramways, mills and factories with electric power; and also for the supplying of electricity to light or heat mines, quarries, mills, factories, incorporated cities and counties, villages or towns; and also for furnishing electricity for lighting, heating or power purposes to individuals or corporations, together with lands, buildings and all other improvements in or upon which to erect, install, place, use or operate machinery for the purpose of generating and transmitting electricity for any of the purposes or uses above set forth.

108 Cal. 90; 73 Cal. 485; 63 Cal. 73.

Sec. 1580. (New in 1909.) This section went into effect May 19th, 1909, and gives the proceedings necessary to be taken by an executor, administrator or guardian of a minor or incompetent person for the sale of mining claims belonging to an estate, a minor or an incompetent person. This section is too long to insert here, but may be found in the California Session Laws of 1909, or in the Code of Civil Procedure, edition of 1909.

Sec. 1925. (Code of Civil Proc.) Certificates of purchase primary evidence of ownership. A certificate of purchase or of location of any lands in this state, issued or made in pursuance of any law of the United States or of this state, is primary evidence that the holder or assignee of such certificate is the owner of the land described therein; but this evidence may be overcome by proof that at the time of the location or time of filing a pre-emption claim on which the certificate may have been issued, the land was in the adverse possession of the adverse party, or those under whom he claims, or that the adverse party is holding the land for mining purposes. (En. March 11, 1872.)

91 Cal. 544; 125 Cal. 405; 87 Cal. 299.

Sec. 1927. (Code of Civil Proc.) Whenever any patent for mineral lands within the State of California, issued or granted by the United States of America, shall contain a statement of the date of the location of a claim or claims, upon which the granting or issuance of such patent is based, such statement shall be prima facie evidence of the date of such location.

(Act approved March 16, 1872. Stats. 1871, page 413.)

For the Protection of Miners.

Sec. 1. It shall not be lawful for any corporation, association, owner, or owners of any quartz mining claims within the State of California, where such corporation, association, owner or owners employ twelve men daily, to sink down into such mine or mines any perpendicular shaft or incline beyond a depth from the surface of three hundred feet without providing a second mode of egress from such mine, by shaft or tunnel, to connect with the main shaft at a depth of not less than one hundred feet from the surface.

Modes of Escape.

Sec. 2. It shall be the duty of each corporation, association, owner or owners of any quartz mine or mines in this state, where it becomes necessary to work such mines beyond the depth of three hundred feet, and where the number of men employed therein daily shall be twelve or more, to proceed to sink another shaft or construct a tunnel so as to connect with the main working shaft of such mine as a mode of escape from underground accident, or otherwise. And all corporations, associations, owner or owners of mines, as aforesaid, working at a greater depth than three hundred feet, not having any other mode of egress than from the main shaft, shall proceed as herein provided.

Liabilities.

Sec. 3. When any corporation, association, owner or owners of any quartz mine in this state shall fail to provide for the proper egress, as herein contemplated, and where any accident shall occur, or any miner working therein shall be hurt or injured, and from such injury might have escaped if the second mode of egress had existed, such corporation, association, owner or owners of the mine where the injuries shall have occurred shall be liable to the person injured in all damages that may accrue by reason thereof; and an action at law in a court of competent jurisdiction may be maintained against the owner or owners of such mine, which owners shall be jointly or severally liable for such damages. And where death shall ensue from injuries received from any negligence on the part of the owners thereof, by reason of their failure to comply with any of the provisions of this act, the heirs or relatives surviving the deceased may commence an action for the recovery of such damages, as provided by an act entitled An Act Requiring Compensation for Causing Death by Wrongful Act, Neglect or Default, Approved April twenty-sixth, eighteen hundred and sixty-two.

Sec. 4. This act shall take effect and be in force six months from and after its passage.

ACT OF MARCH 31, 1891.

Easement and Drainage of Mines in the State of California.

Sec. 1. Whenever any mine-owner, company or corporation shall have performed the labor and made the improvements required by law for the location and ownership of mining claims or lodes, such owner, company or corporation shall file or cause to be filed, within thirty days after the time limited for performing such labor, or making such improvements, with the county recorder of deeds of the county in which the mine or claim is situated, an affidavit, particularly describing the labor performed and improvements made, and the value thereof, which affidavit shall be prima facie evidence of the facts therein stated. Upon the failure of any claimant or mine-owner to comply with the conditions of this act in the performance of labor, or making of improvements upon any claim, mine or mining ground, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made. But if, previous to relocation, the original locators, their heirs, assigns or legal representatives, resume work upon such claim, and continue the same with reasonable diligence until the required amount of labor has been performed or improvements made, and the required statement of accounts and affidavits filed with the county recorder, then the claim shall not be subject to relocation because of previous failure to file accounts. Upon the failure of any one of the several co-owners to contribute his portion of the expenditures required hereby, the co-owners who have performed the labor or made the improvement may, at the expiration of the year, give such delinquent co-owner personal notice, in writing, or by publication in the newspaper published nearest the claim for at least once a week for ninety days; and if, at the expiration of ninety days after such notice in writing or publication, such delinquent should fail or refuse to contribute his portion of the expenditures required by this section, his interests in the claim become the property of his co-owners, who made the required expenditures. A copy of such notice, together with an affidavit showing personal service or publication, as the case may be, of such notice, when filed or recorded with the recorder of deeds of the county in which such mining claim is situated, shall be evidence of the acquisition of title of such co-owners. Where a person or company has or may run a tunnel or cuts for the purpose and in good faith for the purpose of developing a lode, lodes or claims owned by said person or company or corporation, the money so expended in running said tunnel shall be taken and considered as expended on said lodes or claims; provided further, that said lode, claim or claims shall be distinctly marked on the surface, as provided by law.

Sec. 2. All mining locations and mining claims shall be subject to a reservation of the right of way through or over any mining claims, ditches, roads, canals, cuts, tunnels, and other easements for the purpose of working other mines; provided, that any damage occasioned thereby shall be assessed and paid for in the manner provided by law for land taken for public use under the right of eminent domain.

Sec. 3. This act shall take effect immediately.

Harris v. Kellogg, 117 Cal. 484.

ACT OF MARCH 20, 1903.

Section 1. Provides that all abandoned mining shafts shall be fenced.

Sec. 2. Provides that boards of supervisors may cause shafts on unoccupied public land to be fenced.

Sec. 3. Provides that removing covering or fencing over mining shafts shall be a misdemeanor.

PROVISIONS OF GENERAL STATUTES.

Act 483 to be found in the Session Laws of 1875, at page 853, provided for the Recording of Mining Claims in Calaveras county. (142 Cal. 411.)

Act 2223 of March 27, 1874. For the Protection of Coal Mines and Coal Miners, can be found in the Session Laws of California, 1873-4, at page 726.

Act 2225, of March, 1893, provides for a uniform system of mine bell signals to be used in all mines operated in the State of California. (These rules printed on sheets can be obtained from State Mining Bureau for 5c.) (California Laws 1893, page 82.)

Act 2226 of March 24, 1893, provides for the appointment, duties and compensation of a Debris Commissioner, and makes an appropriation to be expended in the discharge of his duties as such commissioner.

This act can be found in the Session Laws of California, of 1893, page 339; of 1897, page 169; of 1901, pages 284 and 564; and in full as amended in General Laws of California, Act No. 2226.

Act 2227. (General Laws.) This provides that public lands of California, Secs. 16 and 36, are open to mineral entry.

Act 2228. To regulate the rights of owners of mines.

This act gave rights of way to miners, and places of deposits. It has not been repealed in terms, but as County Courts have been abolished, it is probably not in force. It can be found in Statutes of California, 1869-70, of page 569.

CALIFORNIA HYDRAULIC MINING.

For provisions of an Act to create the California Debris Commission and regulate Hydraulic Mining in California.

See Act of Congress, March 1, 1893, ch. 183; 27 U. S. Stat. at Large 507; also Amendment of February 27, 1907, in 34 Stat. at Large, page 1001.

LANDS UNCOVERED BY RECESSION OF WATER. AN ACT TO AMEND SECTION 3493m OF THE POLITICAL CODE—APPROVED APRIL 14, 1911.

This Act provides that any person may purchase any State lands which may be hereafter uncovered by the recession of waters of inland lakes, by application to Surveyor General of California, but if such lands contain mineral deposited by water the lands can be leased. See above section for full text of this Act.

MINERAL LANDS WITHIN MEANDER LINES OF LAKES, ETC.

(Approved April 27, 1911.)

This Act provides that lands within original meander lines of streams the waters of which contain minerals may be leased. For full text of Act see the Act itself, too long and not of sufficient general interest for this book. Also write Assessor of County in which such lands occur or to Surveyor General of California for full information and blanks.

EIGHT HOUR LAW.

(Approved March 10th, 1909.)

Section 1. Provides that persons engaged in work in underground mines, shall not exceed eight hours in any twenty-four hours, except in case of emergency.

Sec. 2. Provides a penalty for anyone violating the act, laborer or employer.

MINERALS IN LAKES AND STREAMS.

AN ACT REGULATING THE EXTRACTION OF MINERALS FROM THE WATERS OF ANY STREAM OR LAKE AND PROHIBITING THE EXTRACTION OF MINERALS FROM SAID WATERS EXCEPT UNDER LEASE FROM OR EXPRESS PERMISSION OF THE STATE FOR A PERIOD NOT EXCEEDING TWENTY-FIVE YEARS.

(Approved April 14, 1911.)

Section 1. Minerals contained in the waters of any stream or lake in this state shall not be extracted from said waters except upon charges, terms and conditions prescribed by law. No person, firm, corporation or association shall hereafter gain the right to extract or cause to be extracted said minerals

from said waters by user, custom, prescription, appropriation, littoral rights, riparian rights, or in any manner other than by lease from or express permission of the state as prescribed by law; and no such lease or permission shall be granted for a longer period than twenty-five years.

Sec. 2. All acts or parts of acts in conflict herewith are hereby repealed.

Sec. 3. This act shall take effect immediately.

ACT CREATING A "CONSERVATION COMMISSION," ETC.

(Approved April 8, 1911.)

This act provides for the appointment by the Governor of a "Conservation Commission of the State of California," to consist of three persons, serving without pay. The duties of such commission are to investigate the laws of the United States and foreign nations, etc., upon the subjects of forestry, water, electricity, power, mines and mining, etc., and to prepare and recommend to the legislature laws on such subjects—(Too long for this book—See Session Laws of 1911).

GRAND LARCENY FROM MINE.

(Act of March 20th, 1872. Deering's Penal Code, p. 833.)

Section 1. Every person who shall feloniously steal, take and carry away, or attempt to take, steal, and carry from any mining claim, tunnel, sluice, under-current, riffle-box, or sulphurate (sulphuret) machine any gold-dust, amalgam, or quicksilver, the property of another, shall be deemed guilty of grand larceny, and upon conviction thereof shall be punished by imprisonment in the state prison for any term of not less than one year nor more than fourteen years.

Act Takes Effect When.

Sec. 2. This act shall be in force from and after its passage.

An act prohibiting the unnecessary wasting of natural gas into the atmosphere; providing for the capping or otherwise closing of wells from which natural gas flows; and providing penalties for violating the provisions of this act.

(Approved March 25, 1911.)

Section 1. All persons, firms, corporations and associations are hereby prohibited from wilfully permitting any natural gas wastefully to escape into the atmosphere.

Sec. 2. All persons, firms, corporations or associations digging, drilling, excavating, constructing or owning or controlling any well from which natural gas flows shall upon the abandonment of such well, cap or otherwise close the mouth of or entrance to the same in such a manner as to prevent the unnecessary or wasteful escape into the atmosphere of such natural gas. And no person, firm, corporation or association

owning or controlling land in which such well or wells are situated shall wilfully permit natural gas flowing from such well or wells, wastefully or unnecessarily to escape into the atmosphere.

Sec. 3. Any person, firm, corporation or association who shall wilfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

Sec. 4. For the purposes of this act each day during which natural gas shall be wilfully allowed wastefully or unnecessarily to escape into the atmosphere shall be deemed a separate and distinct violation of this act.

Sec. 5. All acts or parts of acts in conflict herewith are hereby repealed.

Sec. 6. This act shall take effect immediately.

PROTECTION OF OIL AND GAS STRATA.

AN ACT TO PREVENT INJURY TO OIL, GAS OR PETROLEUM-BEARING STRATA OR FORMATIONS BY THE PENETRATION OR INFILTRATION OF WATER.

(Approved March 20, 1909.)

This Act does not concern general mining and too long for this book. It can be found in the General Statutes of California.

NOTICE OF QUARTZ LODE LOCATION.

Notice is hereby given, That I, ..., a citizen of the United States, have discovered a vein of rock in place, carrying gold, silver, copper, and other valuable deposits, upon which I have erected a discovery monument and posted this notice, as hereinafter set forth; that in accordance with the provision of Chapter 6, Title 32 of the Revised Statutes of the United States and the laws of the State of California, I hereby claim fifteen hundred linear feet of said vein, measured thereon as hereinafter set forth. Said discovery was made on the.....day of....., 19.... Immediately upon making the same, and on the..... day of....., 19..., I erected at the point of discovery, a substantial monument, consisting of a mound of rocks and....., posted thereon this notice.

The * general course of said vein is.....and..... I claim in length thereon.....feet.....and..... feet.....from said discovery monument. I also claim three hundred feet on each side of the center of the vein. This vein or claim shall be known as and called the..... It is situated in.....Mining District, and in †

Sec....., Tp....., R.....S. B. M., in.....
County, California, and the discovery monument.....
being placed about §.....
from .....

That the following is a description of said location as marked on the ground; ‡ commencing at the.....
of said claim, a.....from which initial point the discovery monument is distant about.....
feet in a.....direction; .....thence||
.....

Dated and posted on the ground, this.....day of
....., 19....

Witness.....

.....

.....

Locators.

*Make this description in accordance with the facts, as "The general course of said vein is north and south. I claim in length thereon 500 feet north and 1000 feet south from said discovery monument."

†If the claim is upon surveyed land, give the section, township and range, if possible. This is not required by law, but makes a much better description.

§Here refer to some natural object or permanent monument so as to identify the locality of the claim, in compliance with section 2324, Revised Statutes U. S. A road, house, tree, known mountain or peak, government corner, mill, or known mining claim, are such objects or monuments. As, "About one mile directly east from Jim Budd's quartz mill and 400 rods west from the Lone Star mine," etc.

‡Here state: "Commencing at the N. E. corner of said claim, a mound of rocks 4 ft. high," or at any other corner or point in the boundary; give the distance and direction from this initial monument to the discovery monument, and then locate the discovery with reference to some natural object or permanent monument.

||Here follows a description of the claim from the initial monument. For instance: "Thence 600 ft. northwesterly to the N. W. corner of said claim, at which point is a mound of rocks 2½ ft. high, marked so-and-so (if marked); thence 1500 ft. southwesterly to the S. W. corner of said claim, being a mound of rocks," etc.; so going around the claim to the point of beginning.

NOTICE OF LOCATION OF PLACER CLAIM.

Notice is hereby given, That....., citizen.. of the United States, h.. this.....day of ....., 19..., discovered a valuable placer deposit within the limits of this claim; that by virtue of said discovery, ... ha.. located, and hereby locate and claim the following described land, situate in.....Mining District, ...

County, California, to-wit: * .....
of section....., Township....., Range.....,
S. B. M., containing.....acres.† Said claim is
hereby named.....Placer Claim. Said claim
is marked upon the ground as follows: ‡.....

This notice is posted on a mound of rocks at the point of discovery, situated §.....

Dated and posted on the ground, this....day of....., 19....

||.....
.....
Locator.

For form of Mill Site Location Notice, see U. S. Mining Laws.

For form of Affidavit of Annual Labor, see end of Arizona Mining Laws.

For form of Notice of Forfeiture, see U. S. Mining Laws, at end thereof.

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*The statute provides that the locator must give "a description of the claim by reference to legal subdivisions of sections, if the location is made in conformity with the public surveys; otherwise a description with reference to some natural object or permanent monument as will identify the claim."

†When not described by legal subdivisions, the description should conform to that contained in the final certificate of location of a lode claim.

‡The statute provides that, whether described by legal subdivisions or not, the location shall be marked by the locator on the ground, and as the affidavit to be filed later is not required to contain a description of the claim, we think this notice should state how the location is marked; as, for instance, "At the N. E. corner of said tract a mound of rocks 3 ft. high, marked so-and-so (if marked), and at the N. W. corner a stake in a mound of rocks, marked," etc., and so on for each monument enclosing the claim.

§Here state where the discovery is located, as, for instance, "20 ft. S. W. of the N. E. corner monument."

||A duplicate of this notice must be filed for record with the county recorder within thirty days from the discovery; and the locator is allowed thirty days to mark his location on the ground.

James Irving & Company

GOLD BUYERS AND ASSAYERS

We have the largest and most complete assaying and gold refining establishment in Southern California. All work passing through our office receives careful and prompt attention, and returns are guaranteed to be correct.

Samples of ore retained for two months.

We make a specialty of mine examinations and reports on the same.

Returns on bullion are made within twenty-four hours after receipt, either in cash, check, or money order.

Location notices and sample sacks furnished on application.

107 North Spring Street

Los Angeles, California

PHONE A 2871

MINING LAWS OF NEVADA

(See also U. S. Mining Laws.)

LOCATION AND RELOCATION.

(Revised Laws 1912, Secs. 2422-2446.)

How to Locate.

Sec. 1. Any person, a citizen of the United States, or one who has declared his intention to become such, who discovers a vein or lode, may locate a claim upon such vein or lode by defining the boundaries of the claim in the manner hereinafter described and by posting a notice of such location at the time and point of discovery, which notice must be posted upon one of the several monuments prescribed in section 2 of this act, and such notice must contain:

First—The name of the lode or claim. Second—The name of the locator or locators. Third—The date of the location. Fourth—The number of linear feet claimed in length along the course of the vein, each way from the point of discovery, with the width on each side of the center of the vein, and the general course of the vein or lode as near as may be.

Van Valkenburg v. Huff, 1 Nev. 147; Mallet v. Uncle Sam G. & S. M. Co., 1 Nev. 188; Overman S. M. Co. v. American M. Co., 7 Nev. 312; Phillpotts v. Blasdell, 8 Nev. 61; Wiell v. Lucerne M. Co., 11 Nev. 200; Golden Fleece v. Cable Consolidated M. Co., 12 Nev. 312; Cleeson v. White, 13 Nev. 443; Overman S. M. Co. v. Corcoran, 15 Nev. 147; Rose v. Richmond M. Co., 17 Nev. 25; Poujade v. Ryan, 21 Nev. 449; Brady v. Husby, 21 Nev. 453; 134 F. R. 610.

Discovery Shaft to be Sunk—Depth Ten Feet—Boundaries of Claim, How Defined.

Sec. 2. The locator of a lode mining claim must sink a discovery shaft upon the claim located 4x6 feet to the depth of at least ten feet from the lowest part of the rim of such shaft at the surface, or deeper if necessary, to show by such work a lode deposit of mineral in place; a cut or crosscut or tunnel which cuts the lode at a depth of ten feet, or an open cut along the said ledge or lode equivalent in size to a shaft four feet by six feet by ten feet deep, is equivalent to a discovery shaft. The

locator must define the boundaries of his claim by removing the top of a tree (having a diameter of not less than four inches), not less than three feet above the ground, and blazing and marking the same; or by a rock in place, capping such rock with smaller stones, such rock and stones to have a height of not less than three feet; or by setting a post or stone, one at each corner and one at the center of each side line. When a post is used, it must be at least four inches in diameter by four and one-half feet in length, and set one foot in the ground. When it is practically impossible on account of bedrock or precipitous ground to sink such posts, they may be placed in a mound of earth or stones, or where the proper placing of such posts or other monuments is impracticable or dangerous to life or limb, it shall be lawful to place such posts or monuments at the nearest point, properly marked to designate its right place. When a stone is used, not a rock in place, it must be not less than six inches in diameter and eighteen inches in length, and set two-thirds of its length in the top of a mound of earth or stone four feet in diameter, and two and one-half feet in height. All trees, posts or rocks used as monuments which are not four feet in diameter at the base shall be surrounded by a mound of earth or stones four feet in diameter by two feet in height, which trees, posts, stones or rock monuments must be so marked as to designate the corners of the claim located; provided, however, that the locator of a mining claim shall within twenty days from the date of posting the notice of location define the boundaries of said claim by placing at each corner and the center of each sideline one of the hereinbefore described monuments, and shall within ninety days from the date of posting of said location notice perform the location work hereinbefore prescribed.

Silver M. Co. v. Fall, 6 Nev. 116; Southern Cross G. & S. M. Co. v. Europia M. Co., 15 Nev. 383; Sisson v. Sommers, 24 Nev. 379.

WHAT NOTICE SHALL CONTAIN — WHEN LOCATION IS VOID.

Sec. 3. Any locator or locators of a mining claim, after having established the boundaries of said claim, and after complying with the provisions of this act, with reference to the establishment of such boundaries, may file with the district mining recorder a notice of location, setting forth the name given to the lode or vein, the number of linear feet claimed in length along the course of the vein, the date of location, the date on which the boundaries of the claim were completed, and the name of the locator or locators. Should any claim be located in any section or territory where no district has yet been formed, or where there is no district recorder, the

locator or locators of such claims may file with the county recorder notice of location as set forth above, and said notice of location will be prima facie evidence in all courts of justice of the first location of said lode or vein. Within ninety days of the date of posting the location notice upon the claim the locator shall record his claim with the mining district recorder and the county recorder of the mining district, or county, in which such claim is situated by a location certificate, which must contain:

First—The name of the lode or vein.

Second—The name of the locator or locators.

Third—The date of the location and such description of the location of said claim with reference to some natural object or permanent monument as will identify the claim.

Fourth—The number of linear feet claimed in length along the course of the vein each way from the point of discovery, with a width on each side of the center of the vein, and the general course of the lode or vein as near as may be.

Fifth—The dimensions and location of the discovery shaft, or its equivalent, sunk upon the claim.

Sixth—The location and description of each corner, with the markings thereon.

Any record of the location of a lode mining claim which shall not contain all the requirements named in this section shall be void. All records of lode or placer mining claims, millsites or tunnel rights heretofore made by any recorder of any mining district, or any county recorder, are hereby declared to be valid and to have the same force and effect as records made in pursuance of the provisions of this act. And any such record, or a copy thereof, duly verified by a mining recorder or duly certified by a county recorder, shall be prima facie evidence of the facts therein stated.

What Location Includes.

Sec. 4. The location or record of any vein or lode claim shall be construed to include all surface ground within the surface lines thereof, and all lodes and ledges throughout their entire depth, the top or apex of which lies inside of such lines extended downward, vertically with all parts of such lodes or veins as continue to dip beyond the side lines of the claim, but shall not include any portion of such lodes, veins or ledges beyond the end lines of the claim, or the end lines continued, whether by dip or otherwise, or beyond the side lines in any other manner than by the dip of the lode.

End Lines.

Sec. 5. If the top or apex of the lode in its longitudinal course extends beyond the exterior lines of the claim at any point on the surface, or as extended vertically downward, such

lode may not be followed in its longitudinal course where it is intersected by the exterior lines.

Jones v. Prospect Tunnel Co., 21 Nev. 339.

Relocation in Case of Defective Certificate.

Sec. 6. If at any time the locator of any mining claim heretofore or hereafter located, or his assigns, shall apprehend that his original certificate was defective, erroneous, or that the requirements of the law had not been complied with before filing; or shall be desirous of changing his surface boundaries or of taking in any part of an overlapping claim which has been abandoned; or in case the original certificate was made prior to the passage of this law, and he shall be desirous of securing the benefits of this Act, such locator or his assigns may file an additional certificate, subject to the provisions of this Act; provided, that such relocation does not interfere with the existing rights of others at the time of such relocation, and no such relocation or the record thereof shall preclude the claimant or claimants from proving any such titles as he or they may have held under previous location.

Phillpotts v. Blasdell, 8 Nev. 61.

Work to be Done on Relocation.

Sec. 7. The relocation of abandoned lode claim shall be by sinking a new discovery shaft and fixing new boundaries, in the same manner as if it were the location of a new claim; or the relocator may sink the original discovery shaft ten feet deeper than it was at the time of abandonment, in which case the record must give the depth and dimensions of the original discovery shaft at the date of such relocation, and erect new or adopt the old boundaries, renewing the posts or monuments if removed or destroyed. In either case a new location stake shall be erected. In any case, whether the whole or part of an abandoned claim is taken, the record may state that the whole or any part of the new location is located as abandoned property. If it is not known to the relocator that his location is on an abandoned claim, then the provisions of this section do not apply.

Sever v. Gergovich, 16 Nev. 325; Rose v. Richmond M. Co., 17 Nev. 25; South End M. Co. v. Tinney, 22 Nev. 19.

Survey and Certificate of Surveyor Become Part of Record.

Sec. 8. Where a locator or his assigns, has the boundaries and corners of his claim established by a United States deputy mineral surveyor, or a licensed surveyor of this State, and his claim connected with the corner of the public or minor surveys of an established initial point, and incorporates into the record of the claim the field notes of such survey, and attaches to and

files with such location certificate a certificate of the surveyor, setting forth: First, that said survey was actually made by him, giving the date thereof; second, the name of the claim surveyed and the location thereof; third, that the description incorporated in the declaratory statement is sufficient to identify, such survey and certificate becomes a part of the record, and such record is prima facie evidence of the facts therein contained.

Amount of Work to Hold Possession.

Sec. 9. The amount of work done or improvements made during each year to hold possession of a mining claim shall be that prescribed by the laws of the United States, to-wit: One hundred dollars annually. In estimating the worth of labor required to be performed upon any mining claim, to hold the same under the laws of the United States, the value of a day's labor is hereby fixed at the sum of four dollars; provided, however, that in the sense of this statute eight hours of labor actually performed upon the mining claim shall constitute a day's labor.

Affidavit of Work Performed.

Sec. 10. Within sixty days after the performance of labor or making of improvements, required by law to be annually performed or made upon any mining claim, the person in whose behalf such labor was performed or improvements made, or someone in his behalf, shall make and have recorded by the mining district recorder or the County Recorder, in books kept for that purpose, in the mining district or county in which such mining claim is situated, an affidavit setting forth the amount of money expended, or value of labor or improvements made, or both, the character of expenditures or labor or improvements, a description of the claim or part of the claim affected by such expenditures, or labor or improvements, for what year, and the name of the owner or claimant of said claim at whose expense the same was made or performed. Such affidavit, or a copy thereof, duly certified by the County Recorder, shall be prima facie evidence of the performance of such labor or the making of such improvements, or both.

Secs. 1 and 2, Statutes 1897, p. 105.

Notice to a Delinquent—Proviso—Penalty.

Sec. 11. Whenever a co-owner or co-owners shall give to a delinquent coöwner or coöwners the notice in writing or notice by publication provided for in Section 2324, Revised Statutes of the United States, an affidavit of the person giving such notice, stating the time, place, manner of service and by whom and upon whom such service was made, shall be attached to a true copy of such notice, and such notice and affidavit must be

recorded by the mining district recorder or the County Recorder, in books kept for that purpose, in the mining district or county in which the claim is situated; within ninety days after the giving of such notice, or if such notice is given by publication in a newspaper, there shall be attached to a printed copy of such notice an affidavit of the printer or his foreman or principal clerk of such paper, stating the date of the first, last and each insertion of such notice therein, and when and where the newspaper was published during that time, and the name of such newspaper. Such affidavit and notice shall be recorded as aforesaid within one hundred and eighty days after the first publication thereof. The original of such notice and affidavits, or a duly certified copy of the record thereof, shall be evidence that the delinquent mentioned in Section 2324 has failed or refused to contribute his proportion of the expenditure required by that section and of the service or publication of said notice; provided, the writing or affidavit hereinafter provided for is not of record. If such delinquent shall, within the ninety days required by Section 2324 aforesaid, contribute to his coöwner or coöwners his proportion of such expenditures, such coöwner or coöwners shall sign and deliver to the delinquent or delinquents a writing, stating that the delinquent or delinquents by name, has within the time required by Section 2324 of the Revised Statutes of the United States contributed his share for the year....., upon the ..... mine, and further stating therein the district, county and state wherein the same is situate and the book and page where the location notice is recorded; such writing shall be recorded in the office of the County Recorder of said county. If such coöwner or coöwners shall fail to sign and deliver such writing to the delinquent or delinquents within twenty days after such contribution, the coöwner or coöwners so failing as aforesaid shall be liable to a penalty of one hundred dollars, to be recovered by any person for the use of the delinquent or delinquents in any court of competent jurisdiction. If such coöwner or coöwners fail to deliver such writing within said twenty days, then the delinquent, with two disinterested persons having personal knowledge of such contribution, may make affidavit setting forth in what manner, the amount of, to whom and upon what mine such contribution was made. Such affidavit, or a record thereof in the office of the County Recorder of the county in which said mine is situate, shall be prima facie evidence of such contribution.

Notice to Claim but One Location.

Sec. 12. No notice of location of a lode claim shall claim more than one location, whether the location be made by one or

several persons. And if such notice purport to claim more than one location it shall be absolutely void, except as to the first location therein described. And if they are described together, or so that it cannot be told which location is first described the notice of location shall be void as to all.

Location of Placer Claim.

Sec. 13. The location of a placer claim shall be made in the following manner: By posting thereon, upon a tree, rock in place, stone, post, or monument, a notice of location, containing the name of the claim, name of locator or locators, date of location, and number of feet or acres claimed, and by marking the boundaries and the location point in the same manner and by the same means as required by the laws of this State for marking the boundaries of lode claim locations; provided, that where the United States survey has been extended over the land embraced in the location, the claim may be taken by legal subdivisions, and, except the marking of the location point as hereinbefore prescribed, no other markings than those of said survey shall be required.

Relating to Location.

Sec. 14. Within ninety days after the posting of the notice of location of a placer claim, the locator shall perform not less than twenty dollars worth of labor upon the claim for the development thereof, and shall have recorded by the mining district recorder and the County Recorder of the district and county in which the claim is situated a certificate which shall state the name of the claim, designating it as a placer claim, name of locator or locators, date of location, number of feet or acres claimed, a description of the claim with regard to some natural object or permanent monument, so as to identify the claim, and the kind and amount of work done by him as herein required, and the place on the claim where said work was done. This certificate, or the record thereof, or a duly certified copy of said record, shall be prima facie evidence of the recitals therein. But if such certificate do not state all the facts herein required to be stated, it shall be void.

Note.—A decision of the Supreme Court in the case of Butte City Water Co. v. Baker practically establishes the validity of the above Act. The case is reported in 196, U. S., page 119.

Mill Site.

Sec. 15. The proprietor of a vein or lode claim or mine or the owner of a quartz mill or reduction works, may locate five acres of non-mineral land as a mill site.

Notice to Contain.

Sec. 16. The locator of a mill site location shall locate his

claim by posting a notice of location thereon, which must contain: First—The name of the locator or locators. Second—The name of the vein, or lode claim, or mine, of which he is the proprietor, or the name of the quartz mill or reduction works of which he is the owner. Third—The date of the location. Fourth—The number of feet or acres claimed. Fifth—A description of the claim by such reference to a natural object or permanent monument as shall identify the claim or mill site. And by marking the boundaries of his claim in the same manner as provided in this Act for the marking of the boundaries of a placer mining claim, so far as the same may be applicable thereto.

Locator Shall Record.

Sec. 17. The locator of a mill site claim or location shall within thirty days from the date of his location, record his location with the mining district recorder and the County Recorder of the district or county in which such location is situated, by a location certificate which must be similar in all respects to the one posted on the location.

When Location is Void.

Sec. 18. Any record of a mill site location which shall not contain the name of the locator or locators, the name of the vein or lode claim or mine of which the locator is the proprietor, or the name of the quartz mill or reduction works of which the locator is the owner, the number of feet or acres claimed, and such description as shall identify the claim with reasonable certainty, shall be void.

Robinson v. Imperial M. Co., 5 Nev. 44; Hamburg M. Co. v. Stevenson, 17 Nev. 450.

Notice to Contain.

Sec. 19. The locator of a tunnel right or location shall locate his tunnel right or location by posting a notice of location at the face or point of commencement of the tunnel, which must contain: First—the name of the locator or locators. Second—The date of the location. Third—The proposed course or direction of the tunnel. Fourth—The height and width thereof. Fifth—The position and character of the boundary monuments. Sixth—A description of the tunnel by such reference to a natural object or permanent monument as shall identify the claim or tunnel right.

Boundary Lines.

Sec. 20. The boundary lines of the tunnel shall be established by stakes or monuments placed along such lines at an interval of not more than three hundred feet from the face or point of commencement of the tunnel to the terminus of three thousand feet therefrom. The stakes or monuments shall be of the same

size and character as those provided for lode or placer claims in this Act.

Locator Shall Record.

Sec. 21. The locator of a tunnel right or location shall within sixty days of the date of the location, record his location with the mining district recorder and the County Recorder of the county or district in which such location is situated, which must be similar in all respects to the one posted on the location. Any record of a tunnel right or location which shall not contain all the requirements named in this section shall be void.

Relating to Blind Lodes or Veins.

Sec. 22. All blind lodes, or veins or lodes not previously known to exist, discovered in a tunnel run for the development of a vein or lode, or for the discovery of mines, and within three thousand feet from the face of such tunnel, shall be located upon the surface and held in like manner as other lode claims under the provisions of this Act.

Provisions of Act Applicable.

Sec. 23. The provisions of this Act shall be construed as equally applicable to all classes of location except where the requirement as to any one class is manifestly inapplicable to any other class or classes.

Certificate of Location and Labor Need Not Be Sworn To.

Sec. 24. Certificates of location and of labor and improvements necessary to hold claims need not be sworn to, and are not required to be in any specified form, nor to state facts in any specific order; but must truly state the required facts.

Recording of Location When No District Recorder.

Sec. 25. Where there is no mining district, or where a district having once existed the residence of the officers within the district and their places of business within the district where the books are kept are not publicly known, district recording shall not be required of the locator or claim owner. But recording shall be required in the office of the county recorder in all cases; as well where there is a district recorder as where there is none.

LOCATION OF SALINE LANDS.

(Revised Laws 1912, Secs. 2447-2450.)

Location of Saline Lands.

Section 1. Any person may locate, claim and hold not exceeding one hundred and sixty acres of the public lands within this State containing salt or saline matter.

Duty of Persons Locating Saline Lands.

Sec. 2. It shall be the duty of any person or persons locating salt lands to have the same surveyed by the County Surveyor of the county in which said lands are located, within thirty days from the date of location; and the surveyor shall, within thirty days from the completion of said survey, make and deliver to the party employing him to make the survey, a correct description and plat of the lands thus surveyed, and the same shall be recorded in the office of the County Recorder of said county within thirty days from the delivery thereof by the surveyor.

Prior Locations Ratified.

Sec. 3. All locations made prior to the passage of this Act upon saline lands are hereby ratified and confirmed to the locators thereof, their heirs and assigns; provided, the parties now holding and occupying said lands shall, within sixty days from the passage of this Act, have the same surveyed and recorded as provided in section two of this Act.

When Subject to Relocation.

Sec. 4. All persons claiming and holding saline lands under the provisions of this Act shall keep and hold actual possession of said lands by occupying the same, and whenever said lands are abandoned for a period longer than sixty days, the same shall be subject to relocation.

RECORDER MUST GIVE LOCATOR RECEIPT.

(Revised Laws 1912, Secs. 2451-2455.)

Section 1. Whenever the locator of a mining claim shall file his certificate of location in accordance with the law and pay the prescribed fees therefor, it shall be the duty of the Mining District Recorder, and of the County Recorder, with whom said certificate is filed forthwith to give such locator, or his agent, a receipt therefor. Said receipt shall contain name of the claim given in notice filed, and date of location thereof, stating the day and hour such certificate of location was filed.

Sec. 2. The receipt called for in section one of this Act shall be prima facie evidence that the certificate of location has been duly filed, and of the date of filing.

(Two sections not material omitted here.)

Sec. 5. Any Mining District Recorder or County Recorder neglecting or refusing to comply with the provisions of this Act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred ($500) dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

MINERAL LANDS.

(Revised Laws 1912, Secs. 2456, 2457.)

May Enter Upon Mineral Lands—Compensation for Injury.

Sec. 2. The several grants made by the United States to the State of Nevada reserved the mineral lands. Sales of such lands made by the State were made subject to such reservation. Any citizen of the United States, or person having declared his intention to become such, may enter upon any mineral lands in this State, notwithstanding the State's selection, and explore for gold, silver, copper, lead, cinnabar, or other valuable mineral, and upon the discovery of such valuable mineral, may work and mine the same in pursuance of the local rules and regulations of the miners and the laws of the United States; provided, that after a person who has purchased land from the State has made valuable improvements thereon, such improvements shall not be taken or injured without full compensation. But such improvements may be condemned for the uses and purposes of mining in like manner as private property is by law condemned and taken for public use. Mining for gold, silver, copper, lead, cinnabar, and other valuable minerals is the paramount interest of this State, and is hereby declared to be a public use. Stats. 1887, p. 102.

State Disclaims Interest in Mineral Lands.

Sec. 3. Every contract, patent or deed hereafter made by this State or the authorized agents thereof, shall contain a provision expressly reserving all mines of gold, silver, copper, lead, cinnabar and other valuable minerals that may exist in such land, and the State, for itself and its grantees, hereby disclaims any interest in mineral lands heretofore or hereafter selected by the State on account of any grant from the United States. All persons desiring titles to mines upon lands which have been selected by the State must obtain such title from the United States, under the laws of congress, notwithstanding such selection. Stats. 1897, p. 36.

Heydenfeldt v. Daney G. & S. M. Co., 10 Nev. 290.

PROSPECTING ON PRIVATE LAND.

(Revised Laws 1912, Secs. 2458-2462.)

Section 1. Any person, a citizen of the United States, may enter upon any unfenced and unimproved land in the State of Nevada held in private ownership, excepting mining claims and mining property already located or occupied for mining purposes, and may prospect thereon for gold, silver, or other valuable minerals or metals, being responsible to the owner of the land for all damage done thereon.

Sec. 2. Any person, a citizen of the United States, discovering a ledge or deposit containing gold, silver or other valuable mineral or metals in or upon any unfenced and unimproved land in this State held in private ownership, excepting mining claims or mining property already located or occupied for mining purposes, may locate such ledge or deposit, in accordance with the laws of the United States, and of this State in respect to the location of mining claims, the same as though such ledge or deposit was found upon the public domain, and may acquire title to such land so located by means of the special proceedings prescribed in this Act. The said special proceedings shall be substantially as follows:

There shall be filed in the clerk's office of the District Court in the county where the real estate is situated a petition verified according to law, stating therein the names of the person or persons presenting the petition; that he or they have discovered a ledge or deposit containing gold, silver or some other valuable mineral or metal; the description by metes and bounds or by some other accurate designation of the tract or tracts of land, located in the manner of mining claims as herein provided and desired to be appropriated for mining purposes; that said land is more valuable for mining purposes than the purpose for which the same is being held; the names of those in possession of said land, and those claiming any right, title or interest therein, so far as the same can be obtained by reasonable diligence.

Sec. 3. That the proceedings following the filing of such petition shall be as prescribed in that certain Act of the Legislature of this State, entitled "An Act to encourage mining, milling, smelting or other reduction of ores in the State of Nevada," approved March 1, 1875, in so far as the same are not inconsistent with the provisions of this act.

Sec. 4. If upon the hearing of the petition filed as provided in this Act it appears to the satisfaction of the court or judge thereof that the land in question is more valuable for mining than the purpose for which the same is being used, then the petitioner or petitioners shall acquire title thereto in manner similar to that prescribed in the Act to which this Act is supplementary.

Sec. 5. In determining the value of the land as a basis for the compensation which the petitioner or petitioners shall pay to the owners thereof, the minerals therein contained shall not be considered as going to make up the value, but the value which shall govern is the reasonable value of the land for the use to which the same has previously been put, or reasonably might be expected to be put in the future, by the owners thereof.

COUNTY RECORDERS ARE DISTRICT MINING RECORDERS.

(Revised Laws 1912, Secs. 2463-2468.)

County Recorders to Be Ex-Officio District Mining Recorders.

Sec. 1. In every Mining District in this State, in which the seat of government of any county is situated, the County Recorder of said county shall be ex-officio district mining recorder, subject in the discharge of his duties to such rules, regulations and compensations as may be now in force or hereafter prescribed by the mining laws of the mining districts respectively to which this Act is applicable. He shall, as such ex-officio mining recorder, be responsible on his official bond for the faithful performance of the duties of his office and the correct and safe keeping of all the records thereof, and the correct and safe keeping of the copies of all the records mentioned and referred to in section two of this Act.

Duties of Mining Recorders to Certify and Transmit Copies Quarterly.

Sec. 2. It shall be the duty of each and every mining recorder of the several mining districts in the state, on or before the first Monday in January, April, July and October in each year, to transcribe into a suitable book or books, to be provided for that purpose, and to deposit and file with the county recorders of the respective counties in which said mining districts may be located a full, true, and correct copy of the mining records of the respective mining districts for the three months next preceding said first Mondays in January, April, July and October, duly certified under oath; **provided,** this section shall not apply to the mining recorder created by section 1 of this act.

County Commissioners to Provide Books.

Sec. 3. There shall be provided by the county commissioners of the several counties in this state, and furnished to each mining recorder, on his application, suitable books, into which the mining records mentioned in section 2 of this act shall be transcribed.

Fees to Recorders.

Sec. 4. The several mining recorders shall receive for services herein required by section 2 of this act, one dollar for the transcript of each claim, including the oath, which shall be paid at the time of recording by the parties making the locations.

Copies of Records Introduced in Court in Evidence.

Sec. 5. The certified copies of the mining records certified to be deposited and filed as herein provided, shall be received

in evidence, and have the same force and effect in all courts as the original.

Penalty for Not Complying.

Sec. 6. Any person neglecting or refusing to comply with the provisions of section 2 of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

MINING RECORDER AND RECORDS.

(Revised Laws 1912, Secs. 2469-2474.)

Duties of Mining Recorders—Duplicate Notices.

Section 1. It shall be the duty of each and every mining recorder of the several mining districts of the State to require all persons locating and recording a mining claim to make a duplicate copy of each and every mining notice, which copy the said mining recorder shall carefully compare with the original, and mark "duplicate" on its face or margin, and he shall immediately deposit with or transmit the same to the County Recorders of the respective counties in which said mining district may be located.

Fee to Be Collected.

Sec. 2. The said district mining recorders, at the time of comparing said duplicate notices with the original, shall collect from the locators of said mining claims the sum of one dollar for each and every notice compared, which sum he shall transmit, together with the said duplicate notices, to the County Recorders of the respective counties in which said mining claims shall be located. (See also end of Sec. 9.)

Duplicates to Be Filed.

Sec. 3. Whenever, owing to the distance of the mining district from the county seat, it becomes inconvenient for the district mining recorder to personally deposit the duplicate copy with the County Recorder, then in that case he may forward the same by mail or express, or such other manner as will insure safe transit and delivery to the County Recorder.

Fees for Recording.

Sec. 4. The County Recorders of the several counties shall receive for their services for recording each of said duplicate notices mentioned in section two of this Act, the sum of one dollar; provided, that in case the location is made outside of any organized mining district or in the absence of a mining recorder in any organized district, then the person or persons making location shall, within ninety days after making such

location, transmit a duplicate copy of such notice to the Recorder of the county in which the location is made, and the Recorder shall record the same for a fee of one dollar.

Duplicate Notice to Have Force.

Sec. 5. The record of any original or duplicate notice of the location of a mining claim in the office of the County Recorder, as herein provided, shall be received in evidence, and have the same force and effect in the courts of the State as the original mining district records.

Secs. 4 and 5 as amended Statutes 1897, p. 77.

Penalty.

Sec. 6. Any person neglecting or refusing to comply with the provisions of this Act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by such fine and imprisonment.

GRUBSTAKE CONTRACTS MUST BE RECORDED.

(Revised Laws 1912, Sec. 2475.)

Section 1. All grubstake contracts and prospecting agreements hereafter entered into and which may in any way affect the title of mining locations, or other locations under the Mining Laws of this State, shall be void and of no effect except between the parties to said contract or agreement, unless the instrument shall first have been recorded in the office of the county recorder of the county in which said instrument is made. The instrument or instruments shall be duly acknowledged before a notary public or other person competent to take acknowledgments. Grubstake contracts and prospecting agreements, duly acknowledged and recorded as provided for in this act, shall be prima facie evidence in all courts of justice in this State in all cases wherein the title to mining locations and other locations under the mining laws of this State are in dispute.

MAJORITY OWNERS OF MINE MAY CHANGE INTEREST OF MINORITY.

(Revised Laws 1912, Secs. 2476-2482.)

Mining Companies May Bring Suit.

Section 1. When three or more persons, owning or claiming as joint tenants, tenants in common or corparceners, a majority of the number of feet, shares, or interests in any mining claim in this state, shall have formed, or shall hereafter form themselves into a corporation or organized association, for the purpose of working and developing such mining claim, and shall

actually proceed to work and develop the same, such corporation or association may, without demand, except by commencement of action, institute in any court of competent jurisdiction, suit in its corporate or associate name, as upon an implied contract for the payment of money, against any person not a stockholder in or member of such corporation or association owning or claiming to own in said mining claim as joint tenant, tenant in common or coparcener, for his or her proportion of the money actually expended or indebtedness assumed by such corporation or association, in the actual and necessary working and development of said mining claim.

Money Expended or Indebtedness Assumed.

Sec. 2. The proportion of money expended or indebtedness assumed by such corporation or association, and for the payment of which such joint tenant, tenant in common or coparcener, is made liable under the provisions of this act, shall be deemed such an amount of money or indebtedness as bears the same proportion to the whole amount of money expended or indebtedness assumed, as the interest in the mining claim owned or claimed by such joint tenant, tenant in common or coparcener, bears to the whole of the mining claim.

Who May Join in Suit—Issue of Facts—Judgment to Be Separate.

Sec. 3. Any number of such joint tenants, tenants in common or coparceners, may be joined as parties defendant in any suit instituted under the provisions of this act; but each defendant shall be entitled to plead separately; and when the cause shall be tried by jury, as many of the separate issues of fact as may be agreed upon by the parties may be determined by the same jury. Judgment shall be rendered for or against each defendant separately, and the costs of suit may be apportioned among the several parties defendant, against whom judgment may be rendered, in such manner as to the court may appear just and equitable; provided, that in all cases the defendant, prior to the institution of suit under the provisions of this act, shall be entitled to three weeks' notice of the intention of such corporation or association to institute such suit, which notice may be either personally or by publication in some newspaper published in the county within which such mining claim is located; and if none be published in said county, then in the nearest adjoining county.

What Summons Shall Specify.

Sec. 4. The summons shall specify: First, the amount of money actually expended, or indebtedness assumed, by such corporation or association, in the actual and necessary working and development of said mining claim; and, second, the amount due from each joint tenant, tenant in common, or coparcener,

as his or her proportion of such money or indebtedness.

Where Suit to Be Brought—Service of Summons.

Sec. 5. All suits instituted under the provisions of this act shall be brought in the county within which the mining claim may be located; and where the defendant is a non-resident of the county within which the suit is brought, but a resident of the State, service of summons may be had personally, as in other cases, or by publication in the same manner as provided by law for service of summons by publication where the defendant is a non-resident of the State and a resident of the State of California; and all of the provisions of law regulating proceedings in other civil cases shall, so far as the same are applicable, apply to suits instituted under this act.

Lien.

Sec. 6. The amount of money expended or indebtedness assumed, by such corporation or association, as the proportion due from such joint tenant, tenant in common, or coparcener, for the actual and necessary working and development of said mining claim, shall be a lien in favor of such corporation or association upon the interest of such joint tenant, tenant in common, or coparcener, in such mining claim, from the time such money was expended, or indebtedness assumed, by such corporation or association; which lien shall bind such interest from the time of such payment or assumption as against any subsequent purchaser, mortgagee, or other person acquiring a lien upon, or title to, or interest in, the same. Suit may be instituted against the person owning or claiming such interest at the time of the commencement of the action for the recovery of the whole amount due upon such interest; and all judgments rendered in any action instituted under the provisions of this act, and any execution issued thereon, shall bind and run against such interest, and no other property of the defendant shall be subject to execution on said judgment.

Sales to Be Absolute.

Sec. 7. All sales of any interest in a mining claim under an execution issued on a judgment obtained in any suit instituted under the provisions of this act shall be absolute, and the purchaser shall be entitled to the immediate possession of the interest purchased by him at such sale.

Mallett v. Uncle Sam G. & S. M. Co., 1 Nev. 188.

RECOVERY OF STOLEN ORE.

This Act provides that Assayers, etc., must keep record of ore purchased and other provisions concerning recovery of stolen ore. See Sections 2483-2486, Revised Laws of 1912.

PURCHASE OF ORES.

For an Act regarding purchases of ores, see Laws of 1907, page 365, or Sections 2487, etc., Revised Laws of 1912.

STOCKHOLDERS MAY INSPECT MINES.

Revised Laws 1912, Secs. 2492-2496.

Provisions for Inspection of Mines by Stockholders.

Section 1. Any person who shall be the bona fide owner of stock shares representing the value of one-fifth of one per cent of the original capital stock of any company incorporated for the purpose of working upon and mining in any lode, ledge, deposit, or bed of the precious metals, or useful minerals, in this state, and any number of persons who shall be bona fide owners of an aggregate number of mining shares, amounting in value to one-fifth of one per cent of said capital stock, at the time application for a permit to examine any such mine shall be made, such owner or owners of mining stock shall, upon a written order from the county clerk, or from the justice of the peace of the county in which such lode, ledge, deposit or bed is located, be entitled to the privilege of fully examining all of the shafts, adits, borings, drifts, stopes, hoisting apparatus, and every and all properties and appurtenances belonging to any such mining company; **provided,** that not more than one owner of said percentage or aggregate percentages of such mining stock shall either in person, or by an accredited agent, be entitled to such written order for examination of any specified mine or mining property, oftener than twice in one month; these days shall, however, not be more than fourteen, nor less than fifteen days apart. It shall be the duty of the superintendent or other person or parties in charge of any incorporated mining claim, or mining property in this state, to keep posted in some conspicuous place at or near the mine, the day of the week in which authorized stockholders may be admitted under the provisions of this act.

Registration—Application for Privileges—Oath—Fee.

Sec. 2. The county clerk, or justice of the peace, in each of the counties of this state, shall keep in his office a suitable book of registration in which he shall enter the names of all persons who shall be entitled to the privileges granted by this act; and the county clerks or justices of the peace of the several counties in this state are hereby authorized to administer an oath or affirmation to each and every application for said privileges; and for administering such oath or affirmation, and for registering the name of the applicant, the clerk or justice of

the peace shall receive a fee of one dollar, to be paid by the applicant at the time of registration.

Stock Certificate to be Presented—Oath of Applicant.

Sec. 3. Upon making applications as provided in section 2 of this act, for the privilege of entering and examining any of the mining properties mentioned in section 1 of this act, the applicant shall present to the county clerk or justice of the peace, certificates of stock shares representing in value one-fifth of one per cent of the original capital stock of the company, whose mine or mining property he or she desires to examine. Thereupon the applicant shall make oath or affirmation that the said stock certificate or stock certificates presented by him or her are actually his or her own property, or that such certificates of stock at the time of presentation really belong to the party or parties whom he or she is, under the provisions of section 1 of said act, authorized to represent.

Order for Admission to Mine.

Sec. 4. Immediately upon complying with the provisions of section 3 of this act, it shall be the duty of the county clerk, or justice of the peace, to furnish the applicant with a written order for admission to the mine and mining properties which he or she may desire to examine.

Penalty for Refusal.

Sec. 5. Any mining superintendent, or mining foreman, or mining secretary of any incorporated mining company in this state, acting under and for such mining company, who shall fail or refuse to comply with any of the conditions mentioned in section 1 of this act, shall for each and every such failure or refusal be deemed guilty of a misdemeanor, and upon conviction in any court of competent jurisdiction, shall be fined in any sum not less than one hundred ($100) dollars and not exceeding five hundred $500) dollars, or by imprisonment in the county jail for a term not less than thirty days and not exceeding six months, or by both such fine and imprisonment.

CORPORATIONS MUST FILE STATEMENTS.

(Revised Laws 1912, Secs. 1330-1340.)

All Mining Corporations to File Statements With State and County—What Statements Shall Contain — Affidavit — What Must State.

Section 1. Every corporation owning, claiming, holding, leasing or engaged in the business of working or developing any mining claim or mining property, or interest therein, in the State of Nevada, and selling, or offering for sale, either directly or indirectly, any of its shares or capital stock shall,

within sixty days after the expiration of the first six months of its existence as a corporation, and annually thereafter within sixty days after the first day of the month provided by its by-laws for its annual meeting of stockholders, file in the office of the County Recorder of each county wherein such mining property is situated, and in the office of the Attorney-General of this State, a statement duly subscribed and sworn to before a notary public (or other officer authorized by law to administer oaths), by its president or vice-president and its secretary, if it is a domestic corporation, and also by its resident agent, if a foreign corporation; **provided, however,** that the failure of the by-laws of any such corporation to provide a date for the annual meeting of the stockholders thereof shall not excuse said corporation from filing such a statement once during each calendar year. Said statement shall cover the period of time between that embraced in the previous statement filed in accordance herewith and the first day of the month in which said annual meeting is to be held, or in the event that such statement is the first statement to be filed by any corporation in conformity with this Act, such statement shall cover the first six months of the existence of such corporation. Said statement shall contain the following facts and information:

(a) The name of each mining claim and the total number of such claims or fractions thereof owned or leased, and the number thereof being worked and developed, also the county and mining district (if there be one) wherein said claims are located, and the nearest post-office and the distance therefrom, as near as can be ascertained.

(b) The nature of the title thereof, or interest therein, whether leasehold or otherwise, also the date each claim or interest therein was purchased, leased or otherwise acquired by such corporation.

(c) The character, value and a general description of all buildings, works, machinery and other improvements on each unpatented claim, and the character, value and a general description of all buildings, works, machinery and other improvements being actually used or operated by such corporation on its patented ground, taken as a whole; **provided, however,** that where several unpatented claims belonging to such corporation are contiguous and are being developed as a group said statement may state the character, value and a general description of all buildings, works, machinery and other improvements on said entire group of unpatented claims.

(d) The total amount and a description of the development work done upon each unpatented claim, if any, and upon the entire patented property, if any, since the work reported in the last statement was filed as herein provided, or during the first six months of the existence of said corporation, if the statement be the first one filed in accordance with the provisions of this

Act, and the total sum of money or other valuable consideration, given or paid out therefor; **provided, however,** that where several unpatented mining claims belonging to such corporation are contiguous, and the development work thereon has been done on one or more of said claims for the benefit of the entire group, said statement may state the amount and description of the work done for the entire group, and the total sum of money, or other valuable consideration, given or paid out therefor.

(e) The total number of shares such corporation is by law authorized to issue and the different classes and par value thereof.

(f) The total number of shares of stock originally set aside by such corporation, if any, in its treasury or otherwise to sell or otherwise dispose of for the purpose of working, developing or otherwise improving any patented or unpatented mining claim, or claims, owned or leased or being worked or developed by such corporation and the total amount of money realized from the sale of any portion thereof since the sales thereof reported in the last statement filed in accordance with the provisions of this Act, or during the first six months of the existence of such corporation in the event that such statement is the first to be filed by said corporation in accordance herewith.

(g) The total number of shares of treasury stock sold, and the total sum of money or other consideration received therefor since the sales thereof reported in the last statement filed in accordance with the provisions of this Act, or during the first six months of the existence of such corporation in the event that such statement is the first to be filed in accordance herewith, and the number of shares of treasury stock remaining unsold.

(h) The amount of money, if any, actually paid by such corporation to each of its officers, superintendents, or to other persons, exclusive of persons included in subdivisions of this section, as salary or compensation for services rendered such corporation, stating the nature of such services; also, the respective amounts, if any, expended for advertising and as commissions for sales of stock, since the sales thereof reported in the last statement filed in accordance with the provisions of this Act, or during the first six months of the existence of such corporation in the event that such statement is the first filed in accordance herewith.

(i) The total value of the ore produced from the property of such company since the production reported in the last statement filed in accordance with the provisions of this Act, or during the first six months of the existence of such corporation in the event that such statement is the first to be filed by such corporation in accordance therewith.

The affidavit required by this section shall state in substance as follows:

That affiant is the president (or other officer of such corporation, or other person required to make affidavit) and has read the foregoing statement, and knows the contents thereof; that the same is true and correct to the best of his knowledge and belief.

Stockholders to Receive Statements—Fees of County Recorder.

Sec. 2. At the same time, or within ten days after the sworn statement prescribed by Section 1 of this Act shall have been filed with the County Recorder as in this Act provided, the secretary or resident agent, or one officer of such corporation required by this Act to subscribe to the same, shall duly mail or cause to be mailed to each person appearing at said time on the books of such corporation as a stockholder therein, a true typewritten or printed copy of such statement, and shall in addition thereto make an affidavit before some officer duly authorized to administer oaths, that a true copy of such statement has been duly deposited in the United States postoffice (giving the name of the postoffice) addressed to each stockholder of such corporation, as appears from the books thereof, at his or her last known address, or place of residence, and that sufficient postage has been prepaid thereon, and thereupon such secretary or resident agent, or other person making such affidavit shall file the same in the office of such County Recorder, who shall attach the same to the original statement previously filed pursuant to Section 1 of this Act, and to which such affidavit pertains. The County Recorder shall charge, as a filing fee, fifty cents for every original statement required by the preceding section, and fifty cents for filing and attaching the affidavit required by this section, unless the same is attached to said original statement.

Must Plainly Designate Different Kinds of Stock—"Treasury Stock."

Sec. 3. From and after the 15th day of April, 1909, every corporation owning, leasing, working or developing any patented or unpatented mining claim in this State, and selling or offering for sale, either directly or indirectly, or authorizing or causing to be issued or sold, any of its stock or shares for the promotion or development of any such mining claim, shall print or stamp across the face of each certificate of its treasury stock or shares (as defined by this Act) the words "Treasury Stock" in English letters or characters at least one-half of an inch in height, and not less than one-eighth of an inch in width, said letters or characters to be printed or stamped as aforesaid in ink of a conspicuously different color than the ink used in printing, writing or stamping the body or other matter printed, stamped or written thereon.

"Promotion Stock."

Sec. 4. From and after the 15th day of April, A. D. 1909, every corporation owning, leasing, working or developing any patented or unpatented mining claim in this State, and selling or offering for sale, either directly or indirectly, or authorizing or causing to be issued or sold, any stock or shares therein that has not been specifically set aside by such corporation for the purpose of raising money or means for the development of the mineral resources of such mining claim or claims, or for making necessary improvements thereon, shall print or stamp across the face of each certificate so issued or authorized to be issued, sold, or offered for sale, as aforesaid, the words "Promotion Stock" in English letters or characters at least one-half of an inch in height, and one-eighth of an inch in width, and said letters or characters to be printed or stamped thereon as aforesaid, in ink of a conspicuously different color than the ink used in printing or writing or stamping the body or other matter printed, stamped or written thereon.

Definitions of Kinds of Stock.

Sec. 5. All stocks or shares of every mining corporation doing business in this State that have been, or shall be specifically set aside to sell for money or other valuable consideration, and the proceeds of which are to be used for the actual development of the mineral resources of any mining claim, or claims, or for the purpose of making necessary or useful improvements thereon, or for the purpose of maintaining such corporation, or preserving or enhancing its assets, are hereby deemed and declared to be treasury stock and all other stock of such corporation is hereby deemed and declared to be promotion stock, within the meaning of this Act.

All Stock Must be Plainly Designated.

Sec. 6. From and after the 15th day of April, 1909, it shall be unlawful for any corporation or any officer, agent, or director thereof, owning, claiming, leasing, or working, or developing any mining property in the State, to issue any written or printed certificate representing one or more shares of its stock, or to sell or offer for sale any certificate thereafter issued by any such corporation, upon which certificate is not stamped or printed the words "Treasury Stock" or "Promotion Stock" as defined and required by the provisions of this Act, and it shall be unlawful for any person, or any officer, agent, or director of any corporation subject to this Act to so stamp or print any such certificate as "Treasury" stock when in fact the same represents "Promotion" stock, or to so stamp or print any such certificates "Promotion" stock when in fact the same represents "Treasury" stock, as said classes of stock are defined by Section 5 hereof.

This Act Mandatory—Penalties.

Sec. 7. Each and every provision of this Act is hereby declared to be mandatory, and the officer or agent of any mining corporation subject to the provisions hereof who shall fail or neglect to execute and to file the statements or affidavits required by sections 1 and 2 of this Act, or to otherwise comply with all other provisions hereof, or who shall willfully do or perform any act or thing herein declared to be unlawful, shall be deemed guilty of a misdemeanor, and shall upon conviction be fined in any sum not less than $100 nor more than $500, or shall be imprisoned in the county jail for a period of not less than fifty days, nor more than six months, or be punished by both such fine and imprisonment.

Further Penalties.

Sec. 8. Any person who shall act as agent for any foreign corporation, subject to the provisions of this Act, that has not strictly complied with sections one and two hereof shall be deemed guilty of a misdemeanor, and shall be fined in any sum not less than $100 nor more than $500, or be confined in the county jail for a term of not less than fifty days nor more than six months, or by both such fine and imprisonment.

Same.

Sec. 9. Every corporation, domestic and foreign, violating any of the provisions or requirements of this Act shall forfeit to the State of Nevada the sum of one thousand ($1,000) dollars and cost of suit, to be recovered in an action in the name of the State instituted by the Attorney-General, or any District Attorney at the request of the Attorney-General; nor shall any such corporation failing to comply with Sections 1 and 2 of this Act maintain or defend any action in any court of this State; provided, that upon the production of a certificate of the County Recorder that the statements and affidavits required by said sections have been duly filed (except as to the time the same was required to be filed) any such action may be maintained or defended; provided, that the provisions of this Act shall not apply to any action now pending.

Same.

Sec. 10. Any person, other than those mentioned in Section 7 of this Act, who shall violate any provision hereof shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than $100 nor more than $500, or by imprisonment in the county jail not less than fifty days nor more than six months, or by both such fine and imprisonment.

District Attorneys and Attorney-General Must Prosecute.

Sec. 11. The District Attorney of each county in this State shall strictly enforce the provisions of this Act, and in the

event of the failure or refusal of any such officer so to do when complaint is duly made and sufficient legal evidence is obtainable, he shall be deemed guilty of a misdemeanor in office and subject to removal and punishment, as otherwise provided by law, and it shall be the duty of the Attorney-General, in such case, to forthwith prosecute such violation of this Act, and to proceed to prosecute such District Attorney for misdemeanor in office as aforesaid.

CONVEYANCE OF MINING CLAIM.

(Revised Laws 1912, Secs. 1088, 1090, 1091, 1100-1104.)

In Same Manner as Real Estate.

Section 1. Conveyance of mining claims shall hereafter require the same formalities and be subject to the same rules of construction as the transfers and conveyances of other real estate.

Hale & Norcross G. & S. M. Co. v. Storey County et al., 1 Nev. 104; Phillpotts v. Blasdell, 8 Nev. 61; Weill v. Lucerne M. Co., 11 Nev. 200; Gruber v. Baker, 20 Nev. 453.

Former Conveyances Construed.

Sec. 2. All conveyances of mining claims heretofore made by bills of sale or other instruments in writing, with or without seals, recorded or unrecorded, shall be construed in accordance with the lawful local rules, regulations and customs of the miners in the several mining districts of this territory; and if heretofore regarded valid and binding in such districts, shall have the same force and effect between the parties thereto, as prima facie evidence of sale, as if such conveyances had been made by deed under seal.

How Proved.

Sec. 3. The location and transfers of mining claims heretofore made, shall be established and proved in contestation before courts, by the local rules, regulations or customs of the miners in the several mining districts of the territory in which such location and transfers were made.

Van Valkenburg et al. v. Huff et al., 1 Nev. 142; Mallett v. Uncle Sam G. & S. M. Co., 1 Nev. 188; Oreamuno v. Uncle Sam G. & S. M. Co., 1 Nev. 217; Smith et al. v. North American Mining Co., 1 Nev. 423; Chase v. Savage S. M. Co., 2 Nev. 9; Bullion M. Co. v. Croesus G. & S. M. Co., 2 Nev. 168; Gottschall et al. v. Melsing et al., 2 Nev. 185.

Lands Defined.

Sec. 4. The term "lands," as used in this Act, shall be construed as coextensive in meaning with lands, tenements, and

hereditaments, and shall include in its meaning all possessory right to the soil for mining and other purposes, and the term "estate and interest in lands," shall be construed and embrace every estate and interest, present and future, vested and contingent, in lands as above defined.

Mortgage to Be Recorded.

Sec. 5. A mortgage for a good and valuable consideration upon possessory claims to public lands, all buildings and improvements upon such lands, all quartz and mining claims, and all such personal property as shall be fixed in its structure to the soil, acknowledged in manner and form as mortgages upon real estate are required by law to be acknowledged and recorded in the office of the Recorder in the county in which the property is situated, shall have the same effect against third persons as mortgages upon real estate.

Capon v. Stout, 11 Nev. 304.

Mining Rules.

Sec. 6. This Act shall not be so construed as to interfere or conflict with the lawful mining rules, regulations, or customs in regard to the locating, holding, or forfeiture of claims, but, in all cases of mortgages of mining interests under this Act, the mortgagee shall have the right to perform the same acts that the mortgagor might have performed for the purpose of preventing a forfeiture of the same under the said rules, regulations, or customs of mines, and shall be allowed such compensation therefor as shall be deemed just and equitable by the court ordering the sale upon a foreclosure; provided, that such compensation shall, in no case, exceed the amount realized from the claim by a foreclosure and sale.

Deed of Minor Held Valid—Proviso—Suits Pending.

Sec. 7. In all cases in this State since the first day of July, A. D. eighteen hundred and sixty-seven, where minors over the age of eighteen years have sold interests acquired by them in mining claims or locations by virtue of their having located such claims, or having been located therein by others and have executed deeds purporting to convey such interests, such deeds, if otherwise sufficient in law, shall be held valid and sufficient to convey such interest fully and completely, notwithstanding the minority of the grantor, and without any power or right of subsequent revocation; provided, that this section shall not apply to cases where any fraud was practiced upon such minor, or any undue or improper advantage was taken by his purchaser or any other person to induce such minor to execute such deed; and, provided further, that this section shall not apply to or affect any suits which may now be pending in any courts of this State, in which the legality or validity of such deeds may be involved.

Minors Empowered to Sell or Convey.

Sec. 8. All minors in this State, over the age of eighteen years, are hereby authorized and empowered to sell and convey by deed such interests as they may have acquired, or may hereafter acquire, in mining claims or mining locations within this State, by virtue of locating the same, or being located therein, and such deed shall, if otherwise sufficient in law, be held valid and sufficient to convey such interest fully and completely, and without the right of subsequent revocation, notwithstanding the minority of the grantor, subject, however, to the same provisions and limitations contained in the first section of this act.

PARTITION OF MINING CLAIM.

(Revised Laws 1912, Secs. 5576-5582.)

Action for Partition.

Section 1. When the action is for partition of a mining claim among the tenants in common, joint tenants, coparceners or partners thereof, the court, upon good cause shown by any party or parties in interest, may, instead of ordering partition to be made in manner as hereinbefore provided, or a sale of the premises for cash, direct the referees to divide the claim in the manner hereinafter specified.

Order of Court.

Sec. 2. The court shall, in its order, or by a subsequent order made upon motion, fix the time for division of the claim by the referees, which shall not be less than twenty nor more than forty days from the day of making the order, except by consent of all the parties in interest who have appeared in the action.

To Go on Claim.

Sec. 3. On the day designated in the order, the referees shall go upon the claim to be divided, and proceed to make division of the same as hereinafter provided, and shall continue from day to day until the whole business is completed.

Parties May Unite.

Sec. 4. Two or more of the tenants in common, joint tenants, copartners or parceners, may unite together for the purposes of such division, of which they shall give the referees written notice before they commence the business of division; and all who do not unite as aforesaid, or give notice of separate action, shall, for the purposes of division, be deemed and held to have united. The referees in their action shall recognize those named in the order of the court, or their agents and attorneys in fact, duly appointed by instrument in writing under seal, and acknowledged as in cases of conveyances of real estate, the guardian of an infant, and the guardian entitled to the custody

and management of the estate of an insane person or other person adjudged incapable of conducting his own affairs, and as to the interest of each, shall be controlled entirely by the order of the court.

To Select Place of Location.

Sec. 5. At the time and place of division, one of the referees to be selected by them shall, in the manner of public auction, offer to the party or parties who will take the least part or portion of said mining claim in proportion to the interest he or they may have therein, the privilege of first selecting the place at which his portion shall be located, and upon closing the bids the referees shall proceed to measure and mark off, by distinct metes and bounds, to the lowest bidder, his or their portion of said mining claim, at the place designated by them or him, according to the terms of his or their bid.

Duties of Referees.

Sec. 6. When the referees have marked off and set apart the interest of the lowest bidder, as provided in the last section, they shall offer to the remaining parties the privilege of selection as in said section mentioned and described, and shall, upon closing the bids, proceed in the same manner to locate and mark off the portion of the lowest bidder, and shall thereafter continue in the same manner to receive bids and mark off the interest of the bidder or bidders until there shall remain but one party in interest, or parties united, forming one interest, as provided in section four.

Parties Remaining.

Sec. 7. The party or parties remaining as provided in the last section, shall become the owner or owners, as the case may be, of the entire claim not marked off and set apart to other parties as hereinbefore provided, in proportion to their respective interests in the claim.

To Be Returned.

Sec. 8. The referees shall return with their report in this act required to be made by them, the evidences of authority presented to them by which they claim the right to bid, or otherwise act, during the proceedings hereinbefore mentioned.

DAMAGE TO OR TRESPASS ON MINING CLAIM.

(Revised Laws 1912, Secs. 5509-5511.)

Manner of Working Mine—Damages, How Assessed.

Section 1. Any person or persons, company or corporation, being the owner or owners of, or in possession under any lease or contract for the working of any mine or mines within the

State of Nevada, shall have the right to institute and maintain an action, as provided by law, for the recovery of any damages that may accrue by reason of the manner in which any mine or mines have been or are being worked and managed by any per son or persons, company or corporation, who may be the owner or owners, or in possession of and working such mine or mines under a lease or contract, and to prevent the continuance of working and managing such mine or mines in such manner as to hinder, injure or in any wise endanger the safety of any mine or mines adjacent or adjoining therto. And any such owner of, or in the possession of any mine or mining claim, who shall enter upon or into, in any manner, any mine or mining claim, the property of another, and mine, extract, excavate or carry away any valuable mineral therefrom, shall be liable to the owner or owners of any such mine or mines trespassed upon in the amount of the value of all such mineral mined, extracted, excavated, or carried away, and for all other damages, and in the absence of a showing to the contrary, the value of all such mineral mined, extracted, excavated or carried away shall be presumed to be twice the amount of the gross value of the same, ascertained by an average assay of the excavated material or the ledge from which it is taken, and provided that if such trespass was made in bad faith, such damages may be trebled.

Lien of Judgment and Continuation Thereof.

Sec. 2. Any judgment obtained for damages under the provisions of this act shall become a lien upon all the property of the judgment debtor or debtors, not exempt from execution, in the State of Nevada, owned by him, her, or them, or which may afterwards be acquired, as is now provided for by law, which lien shall continue two years, unless the judgment be sooner satisfied.

Survey May be Applied For—What Affidavit Shall State—Notice of Application, and How Served—Order of Court—Costs.

Sec. 3. Any person or persons named in the first two sections of this act, shall have the right to apply for and obtain from any District Court, or the judge thereof, within this State, an order of survey in the following manner: An application shall be made by filing the affidavit of the person making the application, which affidavit shall state, as near as can be described, the location of the mine or mines of the parties complained of, and as far as known, the names of such parties: also, the location of the mine or mines of the parties making such application, and that he has reason to believe, and does believe, that the said parties complained of, their agents or employees, are or have been trespassing upon the mine or mines of the party complaining, or are working their mine in such

manner as to damage or endanger the property of the affiant. Upon the filing of the affidavit as aforesaid, the court or judge shall cause a notice to be given to the party complained of, or the agent thereof, which notice shall state the time, place, and before whom the application will be heard, and shall cite the party to appear in not less than five nor more than ten days from the date thereof, to show cause why an order of survey should not be granted; and upon good cause shown, the court or judge shall grant such order, directed to some competent surveyor or surveyors, or to some competent mechanics, or miners, or both, as the case may be, who shall proceed to make the necessary examination as directed by the court, and report the result and conclusions to the court which report shall be filed with the clerk of said court. The costs of the order and survey shall be paid by the persons making the application, unless such parties shall subsequently maintain an action and recover damages, as provided for in the first two sections of this act, by reason of a trespass or damage done or threatened prior to such survey or examination having been made, and in that case, such costs shall be taxed against the defendant as other costs in the suit. The parties obtaining such survey shall be liable for any unnecessary injury done to the property in the making of such survey.

Rogers v. Cooney, 7 Nev. 213; Waters v. Stevenson, 13 Nev. 157; Patchen v. Kelley, 19 Nev. 404.

TRESPASS ON PATENTED MINING GROUND.

Statutes 1901, p. 118.

Trespassing a Misdemeanor.

Section 1. Any person or persons knowingly and unlawfully trespassing upon any mining ground for which a United States mineral patent has been issued shall be guilty of a misdemeanor.

Sec. 2. Any person or persons knowingly and unlawfully entering and trespassing upon any mining ground for which a United States mineral patent has been issued, and removes therefrom any soil, substance, or mineral of any kind or character whatever or interferes in any manner with the workings of said patented mine, or places in any shaft, cut, tunnel or workings of said patented mine any obstruction to the development or free use and occupancy of the same by the lawful owners or their legal agents or representatives, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in the sum of three hundred dollars or imprisoned in the county jail for the term of six months, or by both such fine and imprisonment.

Applies to Esmeralda County.

Sec. 3. The provisions of this Act shall only apply to coun-

ties that cast between 400 and 425 votes for Members of Congress, at the general election held in 1900.

STATUTE OF LIMITATIONS.

(Revised Laws 1912, Sec. 4951.)

Recovery of Mining Claims.

Section 4. No action for the recovery of mining claims, or for the recovery of the possession thereof, shall be maintained, unless it shall appear that the plaintiff, or those through or from whom he claims, were seized or possessed of such mining claim, or were the owners thereof, according to the laws and customs of the district embracing the same, within two years before the commencement of such action. Occupation and adverse possession of a mining claim shall consist in holding and working the same, in the usual and customary mode of holding and working similar claims in the vicinity thereof. All the provisions of this act, which apply to other real estate, so far as applicable, shall be deemed to include and apply to mining claims; provided, that in such application "two years" shall be held to be the period intended whenever the term "five years" is used; and, provided further, that when the term "legal title" or "title" are used, they shall be held to include title acquired by location or occupation, according to the usages, laws, and customs of the district embracing the claim.

Bullion M. Co. v. Croesus G. & S. M. Co., 2 Nev. 169; Gottschall v. Melsing, 2 Nev. 185; The 420 Mining Co. v. Bullion Mining Co., 9 Nev. 240; Abernathie v. Con. Virginia Mining Company, 16 Nev. 261.

LIEN—EXEMPTION—INJUNCTION.

(Revised Laws 1912, Secs. 5492, 2213, 5288, 5145.)

Preferred Lien.

Section 1. Where ore is delivered to a custom mill or reduction works, and either sold to said mill or reduction works, or worked at a percentage, the party or parties so furnishing ore to mill or reduction works shall have a preferred lien upon the bullion product, and upon the ore not reduced, as against attachment and other creditors.

Lien on Mine for Wages and Material.

Sec. 2. All miners, laborers and others who work or labor to the amount of five (5) dollars or more in or upon any mine, or upon any shaft, tunnel, adit, or other excavation, designed or used for the purpose of prospecting, draining or working any such mine; and all persons who shall furnish any timber or other material of the value of five (5) dollars or more, to be

used in or about any such mine, whether done or furnished at the instance of the owner of such mine or his agent, shall have, and may each respectively claim and hold, a lien upon such mine for the amount and value of the work or labor so performed, or material furnished; and every contractor, sub-contractor, architect, builder, or other persons, having charge or control of any mining claim, or any part thereof, or of the construction, alteration or repair, either in whole or in part, of any building or other improvement, as aforesaid, shall be held to be the agent of the owner, for the purposes of this chapter.

Miner's Property Exempt from Execution.

Sec. 3. The cabin or dwelling of a miner, not exceeding in value the sum of five hundred dollars; also his sluices, pipes, hose, windlass, whim, derrick, cars, pumps, tools, implements, and appliances necessary for carrying on any kind of mining operations, not exceeding in value the aggregate sum of five hundred dollars, and two horses, mules, or oxen, with their harness, and food for such horses, oxen or mules for one month, when necessary for use by him in working any mining claim or in prospecting for minerals or when necessary to be used for any whim, windless, derrick, car, pump, or hoisting apparatus, and also his mining claim actually worked by him not exceeding in value the sum of One Thousand dollars.

Injunction on Working of Mine.

Sec. 4. If, upon the hearing of an application for an injunction, or for the dissolution of an injunction, it does not satisfactorily appear that there is a sufficient cause for an injunction, or if it appear that the extent of the injunction is too great, it shall be refused, dissolved, or modified, as the case may be, and upon all such applications in actions respecting mines, the court or judge hearing the same may, instead of granting or continuing the injunction, make an order requiring the party against whom the application is made to give a bond in an amount fixed by such court or judge, with sufficient sureties, to be approved by such court or judge, conditioned for the payment to the plaintiff of all damages which he may sustain by reason of the use or occupation of the mine, or other acts complained of, by the party giving the bond, his or its agents, servants, employees, grantees, or other persons by his or its consent pending the litigation, if the plaintiff finally recover; or that upon failure to give such bond within the time prescribed in the order, the injunction shall be granted, or continued, as the case may be; or the court or judge may appoint a receiver to take charge of the mine, or the proceeds thereof, pending the litigation.

PROTECTION OF EMPLOYEES.

Statutes 1903, p. 34.

Limiting Use of Collars, Sleeves or Pulleys on Shafting Machinery.

Section 1. It shall be unlawful for any person, company or corporation, after the first day of July, nineteen hundred and three, to construct or place any shaft or shafting with collars, sleeves or pulleys over two feet in diameter attached or secured to such shaft by set screws projecting above the hub of such collars, sleeves or pulleys. In all such cases where set screws are used, the heads thereof shall be countersunk below the surface of the hub of the collar, sleeve or pulley in which they are placed.

Misdemeanor—Penalty.

Sec. 2. Any person or corporation who shall, after the first day of July, 1903, fail or refuse to comply with the requirements of this Act, when constructing or changing any machinery, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred nor more than five hundred dollars.

Not to Prevent Recovery of Damages.

Sec. 3. Nothing contained in this Act shall be so construed as to prevent recovery in a suit for damages, for injuries sustained by the party so injured or his heirs or administrators.

CAGE TO BE USED IN SHAFT.

Cages to Be Provided by Mining Companies.

Section 1. It shall be unlawful for any person or persons, company or companies, corporation or corporations, to sink or work through any vertical shaft, at a greater depth than three hundred and fifty feet, unless the said shaft shall be provided with an iron-bonneted safety cage, safety crosshead or safety skip, to be used in the lowering and hoisting of the employees of such person or persons, company or companies, corporation or corporations. The safety apparatus shall be securely fastened to the cage, crosshead or skip, and shall be of sufficient strength to hold the cage, crosshead or skip loaded at any depth to which the shaft may be sunk; **provided,** that where safety crosshead is used for other than sinking purposes the same shall be equipped with gates as provided by law for cages; **and provided further,** that where skips are used for other than sinking purposes platforms for men to stand on when being hoisted or lowered shall be placed in said skip not less than four feet from top of same and that an overhead bar be provided for the men to hold to. In any shaft less than

three hundred and fifty feet deep where no safety cage, safety crosshead or safety skip is used and where crosshead or crossheads are used, platforms for employees to ride upon in lowering and hoisting said employees shall be placed above said crosshead or crossheads. Any person or persons, company or companies, corporation or corporations or the managing agent of any person or persons, company or companies, corporation or corporations, violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in the sum of five hundred dollars, or imprisonment in the county jail for a term of six months, or by both such fine and imprisonment.

Approved March 26, 1913, pp. 422, 423.

Failure to Comply—Penalties.

Sec. 2. Any person or persons, company or companies, corporation or corporations, or the managing agent of any person or persons, company or companies, corporation or corporations, violating the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in the sum of five hundred dollars, or imprisoned in the county jail for the term of six months, or by both such fine and imprisonment.

Damages to Be Recovered.

Sec. 3. Nothing contained in this act shall be so construed as to prevent recovery being had in a suit for damages for injuries sustained by the party so injured, or his heir or administrator or administratrix, or any one else now competent to sue in an action of such character.

Patnode v. Harter, 20 Nev. 303.

LIABILITY OF OWNER OF SHAFT.

Safeguards to Be Erected.

Section 1. Any person or persons, company or corporation, who shall hereafter dig, sink or excavate, or cause the same to be done, or being the owner or owners, or in the possession, under any lease or contract of any shaft, excavation, or hole, whether used for mining or otherwise, or whether dug, sunk or excavated for the purpose of mining, to obtain water, or for any other purpose, within this State, shall, during the time they may be employed in digging, sinking or excavating, or after they may have ceased work upon or abandoned the same, erect, or cause to be erected, good and substantial fences, or other safeguards, and keep the same in good repair, around such works or shafts, sufficient to securely guard against danger to persons and animals from falling into such shafts or excavations.

Notices of Violation of Preceding Section May Be Filed.

Sec. 2. Any person being a resident of the county, and knowing, or having reason to believe, that the provisions of section one of this act are being or have been violated within such county, may file a notice with any justice of the peace or police judge therein, which notice shall be in writing, and shall state: First—The location, as near as may be, of the hole, excavation or shaft. Second—That the same is dangerous to persons or animals, and has been left, or is being worked, contrary to the provisions of this act. Third—The name of the person or persons, company or corporation, who is or are the owners of the same, if known, or if unknown, the persons who were known to be employed therein. Fourth—If abandoned, and no claimant; and, Fifth—The estimated cost of fencing or otherwise securing the same against any avoidable accident.

Judge to Issue Order.

Sec. 3. Upon the filing of the notice, as provided for in the preceding section, the justice of the peace, or judge of the police court, shall issue an order, directed to the sheriff of the county, or to any constable or city marshal therein, directing such officer to serve a notice, in manner and form as is prescribed by law for service of summons upon any person or persons, or the authorized agent or agents, of any company or corporation named in the notice on file, as provided in section two of this act.

What Notice Shall Require.

Sec. 4. The notice thus served shall require the said persons to appear before the justice or judge issuing the same, at a time to be stated therein, not more than ten nor less than three days from the service of said notice, and show, to the satisfaction of the court, that the provisions of this act have been complied with, or if he or they fail to appear, judgment will be entered against him or them for double the amount stated in the notice on file; and all proceedings had therein shall be as prescribed by law in civil cases; and such persons, in addition to any judgment that may be rendered against them, shall be liable and subject to a fine, not exceeding the sum of one hundred dollars for each and every violation of the provisions of this act, which judgments and fines shall be adjudged and collected as provided for by law.

Suits to Be in the Name of the State.

Sec. 5. Suits commenced under the provisions of this act shall be in the name of the State of Nevada, and all judgments and fines collected shall be paid into the county treasury for county purposes.

County Commissioners Shall Fence Abandoned Excavations.

Sec. 6. If the notice filed with the justice of the peace or

police judge, as aforesaid, shall state that the excavation, shaft or hole has been abandoned, and no person claims the ownership thereof, said justice of the peace, or judge, shall notify the board of county commissioners of the county, or either of them, of the location of the same, and they shall, as soon as possible thereafter, cause the same to be so fenced or otherwise guarded as to prevent accidents to persons or animals; and all expenses thus incurred shall be paid, first, out of the fines and judgments collected in accordance with the provisions of this act, as other county expenses; provided, that nothing herein contained shall be so construed as to compel the county commissioners to fill up, fence or otherwise guard any shaft, excavation or hole unless in their discretion the same may be considered dangerous to persons or animals.

LEGAL DAY'S WORK.

(Revised Laws 1912, Secs. 6554-6556.)

Eight Hours a Legal Day's Labor in Underground Mines.

Section 1. The period of employment of working men in all underground mines or workings shall be eight (8) hours per day, except in cases of emergency where life or property is in imminent danger.

Same in Smelters, Etc.

Sec. 2. The period of employment of working men in smelters and in all other institutions for the reduction or refining of ores or metals shall be eight (8) hours per day, except in cases of emergency where life or property is in imminent danger.

Misdemeanor—Penalty.

Sec. 3. Any person who violates either of the preceding sections of this Act, or any person, corporation, employer or his or its agent, who hires, contracts with, or causes any person to work in an underground mine or other underground workings, or in a smelter or any other institution or place for the reduction or refining of ores or metals for a period of time longer than eight (8) hours during one day unless life and property shall be in imminent danger shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred ($100) dollars, nor more than five hundred ($500) dollars, or imprisonment in the county jail not more than six months, or by both such fine and imprisonment.

HOURS IN OPEN-CUT WORK.

Revised Laws 1912, Secs. 6557-6558.)

Eight Hours a Day's Work in Certain Mines.

Section 1. The period of employment of working men in

open-pit and open-cut mines shall not exceed eight (8) hours in any twenty-four (24) hours, except in cases of emergency where life or property is in imminent danger.

Penalty for Violation.

Sec. 2. Any person who violates any provisions of section one of this Act, or any person, persons, corporation, employer, or his agent, who hires, contracts with, or causes any person to labor in any open-pit or open-cut mines, for a period of time longer than eight (8) hours within any twenty-four hours, except in cases of emergency where life or property is in imminent danger, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100) or more than five hundred dollars ($500), or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

MINERAL LAND COMMISSIONER.

(Revised Laws 1912, Secs. 4141-4147.)

This law provides that Attorney-General shall be ex-officio Mineral Land Commissioner, and shall see that no mineral lands shall be patented on agricultural entries. Too long for this book. See page 39, Session Laws of Nevada, of 1907.

TAXATION.

For the laws of taxation on proceeds of mining claims see Revised Laws of 1912, Secs. 3699, etc.

EMINENT DOMAIN.

For what purposes right of eminent domain may be used (See Revised Laws of 1912, Secs. 5606, etc.

INSPECTOR OF MINES.

(Revised Laws 1912, Secs. 4198 etc.)

Inspector of Mines Created.

Section 1. The office of Inspector of Mines for the State of Nevada is hereby created.

Salary and Expenses—Term of Office—Bond.

Sec. 2. The Inspector of Mines shall receive as full compensation for his services a salary of thirty-six hundred ($3,600) dollars per annum and his necessary traveling expenses when traveling in the discharge of his official duties, not to exceed eighteen hundred ($1,800) dollars per annum, and all necessary expenses for clerk hire, postage, stationery, printing and other

office expenses, not to exceed twelve hundred ($1,200) dollars per annum; and such compensation and expenses shall be paid as the salary and expenses of other State officers are paid. He shall hold his office for the term of two years, or until his successor is selected and qualified. Before entering upon the discharge of his duties, as such Inspector of Mines, he shall file an official bond in the sum of ten thousand ($10,000) dollars, conditioned for the faithful performance of the duties of his office, in form and manner as other official bonds of State officers.

(Sec. 43 of this fixes term of office 4 years)

Not to be Connected With Any Mining Corporation—Form of Oath.

Sec. 3. The Inspector of Mines shall not at the time of his appointment, or at any time during the term of his office, be an officer, director or employee in or of any mining corporation in this State, or in or of any milling corporation in the State engaged in the business of smelting or reducing ores, and each Inspector and deputies shall, and each of them, have had at least seven years' actual experience in underground workings, and shall make his affidavit before a proper officer to that effect before he shall be qualified to act as such Inspector, or Deputy Inspector, as herein provided. And such Inspector shall devote his whole time to the duties of his office, and shall take and subscribe to the following oath:

STATE OF NEVADA, } ss.
County of ..... }

I, ..., of.....County, do solemnly swear that I will perform each and every duty required of me as Inspector of Mines for the State of Nevada; that I will at all times while acting in my official capacity fulfill the duties of such office according to the law and to the best of my skill and understanding; that I will never at any time while holding the office of Inspector of Mines disclose to any one, directly or indirectly, under any circumstances any information relative to ore bodies, shoots or deposits of ore or the location, course or character of underground workings, or give my opinion founded on any examination made in the performance of my official duties relative to the value of any mine or mining property, unless by permission of the person or persons in charge of same. To all of which I pledge my sacred honor. So help me, God.

Nothing in said oath, however, shall be construed to prevent such Mining Inspector from making full and complete statistical reports as required by law.

Mines to be Inspected at Least Once Annually.

Sec. 4. It shall be the duty of the Inspector of Mines at least once a year, to visit in person each mining county in the

State of Nevada and examine all such mines therein as, in his judgment, may require the examination for the purpose of determining the condition of such mines as to safety, and to collect information and statistics relative to mines and mining and the mineral resources of the State, and to collect, arrange and classify mineral and geological specimens found in this State and to forward the same to the State School of Mines, and it shall be the duty of the Inspector of Mines to establish a uniform code of signals.

Inspector to Have Full Power to Enter All Mine Workings—Notice Served on Manager of Unsafe Mine—Penalty for Non-compliance.

Sec. 5. Said State Inspector shall have full power and authority at all hours, to enter and examine any and all mines in this State, and shall have the right to enter into any and all mine stopes, levels, winzes, tunnels, shafts, drifts, cross-cuts, workings and machinery for the purpose of such examination; and the owner, lessor, lessee, agent, manager or other person in charge of such mine or mines shall render the Inspector such assistance as may be required by the Inspector to enable him to make a full, thorough and complete examination of each and every part of such mine or mines; and whenever, as the result of the examination of any mine (whether such examination is made in consequence of a complaint, as hereinafter provided, or otherwise), the Inspector shall find the same to be in an unsafe condition, he shall at once serve, or cause to be served, a written notice upon the owner, lessor, lessee, agent, manager, or other person in charge of such mine, stating in detail in what particular or particulars the mine is dangerous or insecure, and shall require all necessary changes to be made, without delay, for the purpose of making said mine safe for the employees therein; and in case of any criminal or civil proceedings at law against the party or parties so notified, on account of the loss of life or bodily injury sustained by any employee subsequent to the service of such notice, and in consequence of a neglect or refusal to obey the Inspector's requirements, a certified copy served by the Inspector shall be prima facie evidence of the culpable negligence of the party or parties so notified.

Inspector to Have Office at Capitol—Mine Owners to Report.

Sec. 6. The Inspector of Mines shall be provided with a properly furnished office at the State House in Carson City, Nevada, in which he shall carefully keep a complete record of all mines examined, showing the date of examination, the conditions in which the mines were found, the manner and method of working, the extent to which the laws are obeyed, and what recommendations, if any, were ordered by the Inspector. It is hereby made the duty of the owner, lessor, les-

see, agent, manager or other person in charge of each and every mine, of whatever kind or character, within the State, to forward to the Inspector of Mines at his office, not later than the first day of June in each year, a detailed report showing the character of the mine, the number of men then employed and the estimated maximum number of men to be employed therein during the ensuing year, the method of working such mine and the general condition thereof, and such owner, lessor, lessee, agent, manager or other person in charge of any mine within the State must furnish whatever information relative to such mine as the Inspector of Mines may from time to time require for his guidance in the proper discharge of his official duties.

Complaint as to Dangerous Mines—Inspector to Serve Notice—Names of Complainants Kept Secret.

Sec. 7. Whenever the Inspector of Mines shall receive a formal complaint in writing, signed by one or more persons, setting forth that the mine in which he is employed is dangerour in any respect, he shall, in person, visit and examine such mine; **Provided,** every such formal complaint shall in all cases specifically set forth the nature of the danger existing at the mine, and shall describe with as much certainty as possible the conditions rendering such mine dangerous, and shall set forth the time when such danger was first observed, and shall distinctly set forth whether or not any notice of such defect or danger has been given by the complainants or any one else to their knowledge to the superintendent or other person in charge of such mine, and if no such complaint has been made to such superintendent or other person in charge, the reason why it has not been made. After such complaint shall have been received by the Inspector of Mines, it shall be the duty of such Inspector to serve a certified copy thereof, upon the owner, lessor, lessee, agent, manager, or other person in charge, and, as soon as possible after receiving such complaint, to visit and examine such mine; and if from such examination he shall find such complaint to be just, he shall give notice in writing of the danger existing, to the owner, lessor, lessee, agent, manager, or other person in charge thereof, and in such notice may, in his discretion, order such mine or workings in which danger exists, closed until danger has been removed. The names of the complainants complaining as in this section provided, shall not, under any circumstances, be divulged to any person by said Inspector except such action be necessary in the administration of justice in the courts of the State.

Non-compliance With Notice, How Prosecuted.

Sec. 8. It shall be the duty of the Inspector of Mines upon the neglect or refusal of any owner, lessor, lessee, agent, manager, or other person in charge of any mine or workings, noti-

fied of the unsafe or dangerous condition of his mine, promptly to comply with the requirements of the notice served upon him, to at once notify the Attorney-General of such neglect or refusal, and the Attorney-General or the District Attorney of the county in which said mine is situated, at the instigation of the Attorney-General, must thereupon immediately commence action in the name of the State against the party so notified for the enforcement of the penalty mentioned in section five, in any court of competent jurisdiction. And it shall be the duty of the Inspector of Mines, upon the neglect or refusal of any owner, lessor, lessee, agent, manager or other person in charge of any mine or workings, notified of the unsafe or dangerous condition of his mine, promptly to comply with the requirements of the notice served upon him, to at once notify the Attorney-General of such neglect or refusal, and the Attorney-General must thereupon immediately commence action in the name of the State against the party so notified for the recovery of the penalty mentioned in section five, in any court of competent jurisdiction, and the amount so recovered shall be paid into the General School Fund of the State and constitute a part thereof.

Deputy Inspector—Salary.

Sec. 9. The Inspector of Mines shall appoint a Deputy Inspector who shall receive a salary not to exceed two hundred dollars per month as full compensation for all services, and traveling expenses while in the discharge of his duty.

Inspector to Attend Coroner's Inquest—Testimony.

Sec. 10. Whenever a serious or fatal accident shall occur in any mine in the State of Nevada, it shall be the duty of the owner, lessor, lessee, agent, manager or other person in charge thereof immediately and by the quickest means, to notify the Inspector of Mines, or his deputy, as may be most convenient, of such accident; and the Inspector or his deputy, or both, shall at once repair to the place of accident and investigate fully the cause of such accident; and the Inspector, or his deputy, shall be present at any Coroner's inquest held over the remains of any person or persons killed in any such accident, and shall have power at such inquest to examine and cross-examine witnesses, and may have process to compel the attendance of necessary witnesses at such inquest. If the Inspector or Deputy Inspector cannot be immediately present in case of a fatal or serious accident occurring, it shall be the duty of the owner, lessor, lessee, agent, manager, or person in charge of the mine in which such accident has occurred, to have statements made and verified by those witnessing such accident; in case of no persons being present at the time of the accident, then the statement of those first present thereafter shall be taken, which statement shall be verified, and such veri-

fied statements shall be placed in the hands of the Inspector, or Deputy Inspector, upon the demand of such officer. Whenever any Deputy Inspector is present at any Coroner's inquest and assists in the examination, he shall, at the conclusion thereof, at once prepare and forward to the Inspector a full and detailed report of the accident, giving all information obtainable regarding the same.

Annual Report of Inspector—What to Contain.

Sec. 11. The Inspector of Mines shall, on the first Monday of December of each year, file with the Governor of the State a printed report giving:

First—A list of all accidents that have occurred during the year, the nature and cause of the same, together with the persons killed and injured.

Second—The number of mines visited or examined during the year, the number of mines in operation, and the number of mines idle, the number of men employed, the wages paid and the nationality of the employees.

Third—The name and location of each mine in the State which has been examined and from which the Inspector has received a report as provided in section six of this Act, and all data possible in regard to the manner of working the same, whether by shaft, tunnel, incline, or otherwise; the condition of the hoisting machinery, boilers, whims, engines, cars, buckets, ropes and chains used in the mines; also the appliances used for the extinguishment of fires; the manner and method of working and timbering the shafts, drifts, inclines, stopes, winzes, tunnels and upraises through which persons pass to and fro while engaged in their daily labor; the character of the exits from the mine, and the methods of ventilation and the system of signals used in the mine.

Fourth—The number and character of notices served, together with suggestions and recommendations made; the manner in which such suggestions and recommendations were complied with.

Fifth—The number of complaints received and the actions therein.

Sixth—The number of prosecutions for neglect or refusal to comply with notices.

Seventh—A summary of the reports received from mine owners and Deputy Inspector.

Eighth—A full statement containing all available statistical and other information calculated to exhibit the mineral resources of the State and to promote the development of the same.

Ninth—Generally, such other information and suggestions as may be deemed advisable.

Not to Apply to Certain Mines.

Sec. 12. This Act shall not apply to any mine which is worked exclusively by the owners, or lessees of the owners, and where no men are employed working in said mine for wages.

Governor to Appoint Inspector—Popular Election in 1910.

Sec. 13. Within twenty days from and after the passage of this Act, the Governor shall appoint said Mining Inspector, who shall hold office until December 31, 1910, and at the next general election held in this State, and every two years thereafter, the office of Inspector of Mines mentioned in this Act shall be filled by election by the qualified electors of the State of Nevada, as other State officers are now elected, and the State Controller is hereby authorized and directed to draw his warrants for the several amounts specified in this Act, and the State Treasurer is hereby directed to pay the same.

By Act of 1911—new sections 14 to 43, both inclusive, were added to this Act. They provide for storage of powder in mines, compartment shafts, dead timbers, sign boards, gasoline, bell signals, safety appliances, etc. Too long for this book. See page 403, 1911 Session Laws of Nevada and 1913 Session Laws, p. 315. Large poster with mine bell signals printed thereon can be obtained by writing to Inspector of Mines, Carson City, Nevada.

FALSE DATE ON LOCATION NOTICE.

(Revised Laws 1912, Sec. 6675.)

An Act approved March 29, 1907, makes it a felony to antedate or put any false date, or date other than the one on which location is made, on any location notice.

FALSE STATEMENT REGARDING ORE.

(Revised Laws 1912, Sec. 6710.)

Changing Value of Ores a Misdemeanor—Penalty.

Section 1. Any person, corporation, or association, or the agent of any person, corporation, or association, engaged in the milling, smelting, sampling, concentrating, reducing, shipping or purchasing of ores in this State, who shall in any manner knowingly alter or change the true value of any ores delivered to him or them, so as to deprive the seller of the correct value of the same, or who shall substitute other ores for those delivered to him or them, or who shall issue any bill of sale or certificate of purchase, that does not exactly and truthfully state the actual weight, assay value and total amount paid for any lot or lots of ore purchased, or who, by any secret understanding, or

agreement with another, shall issue a bill of sale or certificate of purchase that does not correctly and truthfully set forth the weight, assay value, and total amount paid for any lot or lots of ore purchased by him or them, shall be guilty of a misdemeanor and, on conviction thereof, shall be fined in a sum not exceeding one thousand dollars, nor less than one hundred dollars, or imprisonment in the county jail not more than one year, or both, at the discretion of the court.

ACTIONS FOR TITLE AND POSSESSION.

(Revised Laws 1912, Secs. 5526, 5203.)

Application for Patent—Jurisdiction of Court.

Right of Possession.

Section 1. In all actions brought to determine the right of possession of a mining claim, or metalliferous vein or lode, where an application has been made to the proper officers of the Government of the United States by either of the parties to such action for a patent for said mining claim, vein, or lode, it shall only be necessary to confer jurisdiction on the court to try said action, and render a proper judgment therein, that it appear that an application for a patent for such mining claim, vein, or lode has been made, and that the parties to said action are claiming such mining claim, vein, or lode, or some part thereof, or the right of possession thereof.

Golden Fleece v. Cable Con. Mining Co., 12 Nev. 312; Rose v. Richmond Mining Co., 17 Nev. 25; Gottschall v. Melsing, 2 Nev. 185; Chase v. Savage S. M. Co., 2 Nev. 9; Bullion M. Co. v. Croesus G. & M. Co., 2 Nev. 168; Stonecifer v. Yellow Jacket S. M. Co., 3 Nev. 39; Schissler v. Chesshire, 7 Nev. 434; Welland v. Huber, 8 Nev. 203; Rogers v. Cooney, 7 Nev. 213; Hamburg M. Co. v. Stevenson, 17 Nev. 450; Patchen v. Kelley, 19 Nev. 404; Deno v. Griffin, 20 Nev. 249; Jones v. Prospect Tunnel Co., 21 Nev. 339; South End Mining Co. v. Tinney, 22 Nev. 19; Abbott v. Primeaux, 16 Nev. 361; Steel v. Gold Lead G. & S. M. Co., 18 Nev. 80.

Trial, When Postponed.

Sec. 2. In actions involving the title to mining claims and quartz ledges, if it be made to appear to the satisfaction of the court that in order that justice may be done, and the action fairly tried on its real merits, it is necessary that further developments should be made, and that the party applying has been guilty of no laches and is acting in good faith, the court shall grant the postponement of the trial of the action, giving the party a reasonable time in which to prepare for trial. And

in granting such postponement, the court may, in its discretion, annex as a condition thereto, an order that the party obtaining such postponement shall not, pending the trial of the action, remove from the premises in controversy any valuable quartz, rock, earth, or ores, and for any violation of an order so made, the court or the judge thereof may punish for contempt, as in the cases of violation of an order of injunction, and may also vacate the order of postponement.

Choate & Brown v. Bullion Mining Co., 1 Nev. 73; Silver Mining Co. v. Fall, 6 Nev. 116.

FEE FOR RECORDING PROOF OF LABOR.

(Revised Laws 1912, Sec. 2046.)

Fees for Recording Proof of Labor on Mining Claims.

Section 1. From and after the passage and approval of this Act the County Recorders and District Mining Recorders of this State shall charge the following fees for recording certificates of proof of labor on mining claims: Fifty cents for recording any such certificate that embraces therein one claim, and an additional fee of twenty-five cents for each and every additional mining claim embraced in said certificate; provided further, that if any such certificate shall contain more than one hundred words, an additional fee of thirty cents shall be charged for each one hundred words or fractional part thereof in excess of said first one hundred words.

Repeal.

Sec. 2. All acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

(Receipt from Recorder, see page 96.)

An Act relating to mines and mining and requiring the keeping open of passageways connecting contiguous mines and giving the right to use the outlet through such contiguous mines in case of necessity and providing a penalty for violation thereof.

Approved March 11, 1913, p. 53.

Section 1. It shall be unlawful for any owner, operator or person in charge of any mine to place or cause to be placed any bulkhead or door in any passageway connecting contiguous mines or to refuse to allow the right of use of such outlet through such contiguous mine in case of an accident; **provided,** that nothing in this Act shall prevent the maintaining of a door in such connection which can be quickly opened or readily broken in case of an accident.

Sec. 2. In all passageways connecting contiguous mines where a door or doors have been erected necessary tools for opening the same shall be kept in a conspicuous place near said

doors and not removed for any purpose whatever other than as specified in this Act.

Sec. 3. Any owner, operator or person in charge of any mine who violates any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment; and each and every day that such owner or operator may continue to violate any of the provisions of this Act shall be considered a separate offense and shall be punishable as such.

Sec. 4. That the words "person," "operator," "owner," and "person in charge," wherever used in this Act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of the Territories, the laws of any State, or the laws of any foreign country.

An Act relating to the equipping of machinery used for boring or drilling holes in stopes and raises with water-jets or sprays or other means to prevent the escape of dust, compelling the use of same, and providing a penalty for violation thereof.

Approved March 17, 1913, pp. 167, 168.

Section 1. It shall be unlawful for any owner, operator or person in charge of any underground mine to cause to be drilled or bored by machinery a hole or holes in any stope or raise in ground that causes dust from drilling, unless said machinery is equipped with a water-jet or spray or other means equally efficient to prevent the escape of dust; **provided,** that when water-jets or sprays are used water free from pollution with organic or other noxious matter shall be furnished.

Sec. 2. Where machinery used for drilling or boring holes in stopes or raises is equipped as required by section 1 of this Act, it shall be unlawful for any person or persons to drill or bore a hole in said stope or raise without using said appliance for the prevention of dust.

Sec. 3. Any person who violates either of the two preceding sections, or any owner, operator or person in charge of any underground mine who hires, contracts with or causes any person to violate the two preceding sections shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment in the county jail not more than six months, or by both such fine and imprisonment.

Sec. 4. That the words "person," "operator," "owner," and "person in charge," wherever used in this Act shall be

deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of the Territories, the laws of any State, or the laws of any foreign country.

Sec. 5. This Act shall take effect and be in full force from and after ninety days next following its passage and approval.

An Act to require the sprinkling of dusty ore and rock in mines and ore-houses, compelling the installation of devices therefor, and providing a penalty for violation thereof.

Approved March 24, 1913, p. 305.

Section 1. Every corporation, company, owner or operator of a mine in this State shall equip all chutes from which dusty ore or rock is taken with a sprinkler or other device with which to effectively dampen said ore or rock to prevent the escape of dust into the air during removal, providing that whenever in the opinion of the Inspector of Mines the installation of said device in any property is impracticable he shall have the power to exempt such property.

Sec. 2. Whenever a sprinkling device is installed at any chute for the purpose of preventing the escape of dust it shall be so placed that it can be operated by the workman loading cars from such chute.

Sec. 3. Every ore-house where dusty ore or rock is sorted shall be supplied at all times with suitable clean water, which shall be used for the purpose of sprinkling said ore or rock to allay the dust. Nothing in this Act shall apply to mines employing less than ten men or to chutes that are loaded in the open air.

Sec. 4. Any corporation, company, owner or operator who fails or refuses to install the sprinkling or watering device hereinabove provided for shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not more than six months, or by both such fine and imprisonment.

Sec. 5. This Act shall take effect and be in full force from and after ninety days next following its passage and approval.

An Act requiring all persons employed in underground mines or in handling explosives to be able to speak and read the English language, and providing penalties for the violation of this Act.

Approved April 1, 1913, p. 569.

Section 1. It shall be unlawful for any person, firm or corporation to employ in any underground mine in the State of Nevada, or in the handling of explosives either in underground

mines or surface mine workings in the State of Nevada, any person or persons who cannot clearly speak and readily understand the English language, or who cannot readily read and understand any sign, notice or list of rules, or directions, printed in the English language in regard to rules of safety in said underground mine, or in the handling of said explosives.

Sec. 2. Any person, firm or corporation, violating any of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred ($100) dollars, nor more than five hundred ($500) dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

Sec. 3. This Act shall take effect January 1, 1914.

NEVADA

PRELIMINARY NOTICE FOR POSTING.

Notice is hereby given that we,....., being each native born citizens of the United States, have on this.....day of....., 19..., discovered a lode bearing gold, silver and other valuable deposits, and have named the same the.....Lode. The course of the lode is.....and we claim .....hundred feet on the vein.....of the point where the discovery was made, and upon which this notice is posted, and.....hundred feet.....from said place of discovery; and we claim three hundred feet on each side of the center of the vein.

Dated and posted on the ground this.....day of.....19....

.....

Act 1897, Sec. I. Any person, a citizen of the United States, or one who has declared his intention to become such, who discovers a vein or lode, may locate a claim upon such vein or lode by defining the boundaries of the claim in manner hereinafter described, and by posting a notice of such location at the point of discovery, which notice must contain: First—The name of the lode or claim. Second—The name of the locator or locators. Third—The date of the location. Fourth—The number of linear feet claimed in length along the course of the vein, each way from the point of discovery, with the width on each side of the center of the vein, and the general course of the vein or lode as near as may be.

NEVADA

LOCATION CERTIFICATE.—LODE CLAIM.

We, ..., being native born citizens of the United States, hereby declare:

That on the.....day of....., 19..., we discovered and located a lode bearing gold, silver and other valuable deposits, and on the same day posted our notice of location at the place of discovery, and named the lode the..... .....Lode.

That the general course of the vein is.....and ....., and we claim.....hundred feet on the vein† ....., and.....hundred feet†..... from.....the point of discovery, and three hundred feet on each side of the center of the vein.

That the discovery shaft is located at....., and is.....feet deep and.....feet long and .....feet wide, and discloses a well-defined crevice, lode or vein.

That the claim is located in the.....Mining District, in.....County, State of Nevada, being situated about *.....

That the following is a description of said location as marked on the ground: Commencing at the..... of said claim, a....., from which initial point the discovery monument is distant about .....feet in a..... direction; thence running **.....

Dated....., 19....

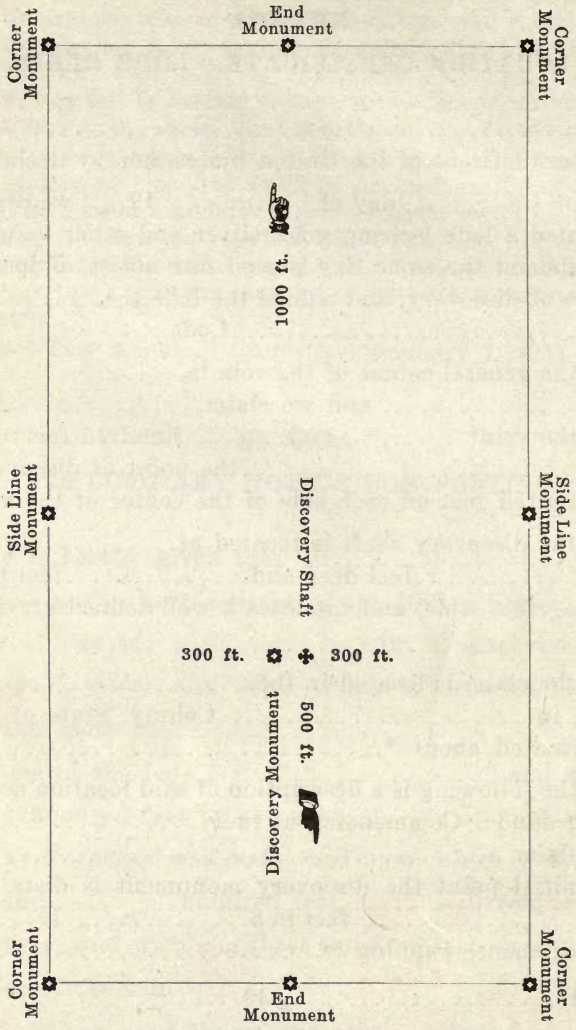
.....

.....

NOTE.—†Here put in North, South, East or West, as the case may be.

*Here refer to some natural object or permanent monument, so as to identify the locality of the claim, in compliance with Sec. 2324, Revised Statutes of the United States, and Sec. 3 of the Act of 1897, Nevada. A road, house, tree, known mountain or peak, government corner, mill, or known mining claim, etc., are such objects or monuments, as "about one mile directly east from Jim Budd's quartz mill, and about 400 rods west from the Lone Star Mine," etc.

**Here follows description of claim, for instance: "Thence running 600 feet northwesterly to the northwest corner of said claim, at which is a mound of rocks four feet high, marked so-and-so (if marked); thence 1,500 feet southwesterly to the southwest corner of said claim, a mound of rocks," etc.; so going around the claim to point of beginning.



This diagram is to give locator a general idea of plan of location. The Discovery Shaft can be in the center of claim or any distance from either end desired. In the diagram it is placed 500 feet from one end and 1000 feet from the other. Commence description of claim at a center end monument, giving its distance and direction from center of Discovery Shaft; thence bound the claim in either direction. In description be careful to state locality of claim with reference to some natural object, or permanent monument, as will identify the claim.

NEVADA

NOTICE OF LOCATION OF PLACER CLAIM.

Notice is hereby given, That....., citizen.. of the United States, h... this.....day of ....., 19..., discovered a valuable placer deposit within the limits of this claim; that by virtue of said discovery ..... ha.. located, and hereby locate and claim the following described land, situate in.....Mining District, ... County, Nevada, to-wit: *..... of section....., Township....., Range..... ....., containing.....acres.† Said claim is hereby named.....Placer Claim. Said claim is marked upon the ground as follows: ‡.....

This notice is posted on a mound of rocks at the point of discovery, situated §.....

Dated and posted on the ground, this....day of....., 19....

||.....

.....

Locator.

*The statute provides that the locator must give "a description of the claim by reference to legal subdivisions of sections, if the location is made in conformity with the public surveys; otherwise a description with reference to some natural object or permanent monument as will identify the claim."

†When not described by legal subdivisions, the description should conform to that contained in the final certificate or location of a lode claim.

‡The statute provides that, whether described by legal subdivisions or not, the location shall be marked by the locator on the ground, and as the affidavit to be filed later is not required to contain a description of the claim, we think this notice should state how the location is marked; as, for instance, "At the N. E. corner of said tract a mound of rocks 3 ft. high, marked so-and-so (if marked), and at the N. W. corner a stake in a mound of rocks, marked," etc., and so on for each monument enclosing the claim.

§Here state where the discovery is located, as, for instance, "20 ft. S. W. of the N. E. corner monument."

||A duplicate of this notice must be filed for record with the county recorder within thirty days from the discovery; and the locator is allowed thirty days to mark his location on the ground. Within sixty days the locator must do work upon this claim to the amount of at least $20, and file an affidavit with the county recorder showing such performance.

AFFIDAVIT OF ANNUAL LABOR.

For this form use same as given for Arizona—ante.

Chipron Stamp Company

MANUFACTURERS OF

Rubber Stamps of every description.

Steel Stamps for impressing wood, leather, iron, bullion.

Brass Signs and Name Plates.

Brass Stencil Plates and Interchangeable Letters.

Brass and aluminum Trade Checks.

Dog Tags; License Tags for all classes of vehicles.

Badges of all kinds, especially for Police, Constables, Sheriffs and Firemen.

Burning brands; Box Printing brands.

Brass, aluminum, copper and etched Name Plates.

Automatic Time Recording Stamps.

Cement Brands for marking names in cement.

Seals for Corporations, Lodges, Notaries Public.

Numbering Machines, Wax Seals, Check Perforators and Protectors, Rubber Type and Sign Markers.

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224 WEST FIRST STREET

LOS ANGELES, CALIFORNIA

OREGON MINING LAWS

As Contained in "Lord's Oregon Laws" and Amendments Relating to Mines and Mining to May 1, 1911. See also U. S. Laws.

(All section numbers refer to "Lord's Oregon Laws."

CONSTITUTIONAL PROVISION.

Chinamen Not to Hold Real Estate or Work Mining Claims.

No Chinaman, not a resident of the State at the adoption of this constitution, shall ever hold any real estate or mining claim, or work any mining claim therein.

The legislative assembly shall provide by law in the most effectual manner for carrying out the above provision. (Art. XV, Or. Const.)

4 Saw. 28.

PENAL LAWS.

Malicious Injury to Water Ditch, Reservoir, etc.—Penalty.

Sec. 1975. If any person shall maliciously, wantonly, or willfully cut, break down, injure, destroy, or remove any water ditch, canal, flume, trench, pipe, or reservior, or any other thing used for conveying, receiving, or holding water used or designed for mining, irrigating, manufacturing, or domestic purposes; or any dam, reservoir, gate, flume, flashboard, or other appurtenance used or designed for any of said purposes, or any wheel, wheel gear, or machinery of any mill or manufactory or machinery used for pumping water for any of said purposes, or shall maliciously or without color of right obstruct, draw off, or use any portion of the water flowing through or contained in such water ditch, canal, trench, pipe, dam, or reservoir, or any mill pond or other receptacle used for containing such water, said person, upon conviction thereof, shall be punished by a fine of not less than $10 nor more than $500.

L. 1905, p. 255, Sec. 1.

Mining Claim Monuments, Injury to—Penalty.

Sec. 1981. If any person or persons shall willfully and maliciously deface, remove, pull down, injure, or destroy any location stake, side post, corner post, landmark, or monument, or any other legal land boundary monument in this State, designating or intending to designate the location boundary or name of any mining claim, lode, or vein of mineral, or the name of the discoverer, or date of discovery thereof, the person or persons so offending shall be guilty of a misdemeanor, and on conviction thereof shall be punishable by a fine of not more than five hundred dollars ($500), or by imprisonment in

the county jail for a period of not more than six months, or by both such fine and imprisonment, in the discretion of the court; provided, that this act shall not apply to abandoned property.

L. 1901, p. 175, Sec. 1.

Trespass on Mining Claims—Penalty.

Sec. 1989. Any person who shall break or rob in any manner, or who shall attempt to break or rob, any flume, rocker, quartz mill, quartz vein, or lode, bed rock sluice, sluice box, or mining claim not his own, or who shall trespass upon such mining claim with the intent to commit a felony, shall, upon conviction thereof, be punished by imprisonment in the penitentiary of this State not less than one nor more than five years, or by fine not less than one hundred dollars nor more than one thousand dollars, or by both such imprisonment and fine, as the court or judge thereof may direct.

L. 1872, p. 24, Sec. 1.

Disposing of Liquor Near Mine Unlawful.

Sec. 2139. It shall be unlawful for any person or persons to sell or in anywise dispose of any spirituous or malt or intoxicating liquors upon or within one mile of any quartz or placer mine in active operation within this State; provided, that this act does not apply to incorporated cities and towns.

L. 1901, p. 292, Sec. 1.

Penalty for Offenses Under Preceding Section.

Sec. 2140. Any person or persons violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty dollars nor more than two hundred dollars, and each and every day that any person or persons shall sell or dispose of any liquors contrary to any provisions of this act shall constitute a separate offense, and shall be punished accordingly.

L. 1901, p. 292, Sec. 2.

MINING ON LANDS BELONGING TO STATE OF OREGON.

(Chapter II,Title XXXI of "Lord's Oregon Laws," Sections 3878 to 3900, provide for State Land Board and Sale and Lease of State Lands—at Sec. 3900 commences law for leasing of such lands containing mineral.)

State Land Board May Make Mining Leases on State Lands.

Sec. 3900. The State Land Board is hereby authorized to execute leases and contracts for the mining of gold, silver, copper, lead, cinnabar, or other valuable minerals from any lands which the State now owns and to which it may hereafter acquire title, and shall make such rules and regulations as may be necessary in carrying out the provisions of this act.

L. 1907, p. 214.

Finder of Mineral May Make Application.

Sec. 3901. Any citizen of the United States finding precious minerals upon any unsold lands of the State of Oregon, may apply to the State Land Board for a lease of any amount of land not to exceed the amount and dimensions allowed by the mining laws of the State and the United States.

L. 1907, p. 214.

Mineral Claim on State Land, How Located.

Sec. 3902. The manner of locating a mineral claim upon State land shall be in accordance with the laws of the State regulating the location of mineral claims on government lands; provided, that any citizen or citizens who may have found minerals on unsold State lands previous to the passage of this act, and posted notices in accordance with the mining laws of the State of Oregon and the United States, shall have preference right to lease the same, and shall have ninety (90) days after the passage of this act, in which to make application to the State Land Board for such lease.

L. 1907, p. 214.

Lease for Development—Conditions.

Sec. 3903. For the purpose of developing such mine or mines, the applicant shall, upon payment of $25, receive from the State Land Board a lease for two years; provided, however, that no more than five tons of ore shall be removed from the premises for assaying or testing purposes until a contract shall have been executed, as hereinafter provided.

L. 1907, p. 214.

Lessee May Use Timber on Premises.

Sec. 3904. The lessee may cut and use the timber found upon said premises for fuel, and in the construction of buildings required in the operation of any mine, or mines, on the premises, also the timber necessary for drains, tramways and supports for such mine, or mines, but for no other purpose.

L. 1907, p. 214.

Contract With Lessee or Assignee.

Sec. 3905. Any time prior to the expiration of said lease, the lease holder or any assignee thereof, shall have the right to obtain from said State Land Board a contract, which shall bind the State of Oregon as a party of the first part, and the person or persons, or corporations, to whom said contract shall issue, as party of the second part, in a mutual observance of such obligations, terms, and conditions as may be agreed upon by said State Land Board and the said lessee.

L. 1907, p. 214.

Lease and Payments Forfeited for Fraud.

Sec. 3906. When the lessee commits fraud, the penalty shall

be the forfeiture of the mine, or mines, and all property pertaining thereto, and all moneys paid thereon.

L. 1907, p. 215.

Waste or Trespass on State Lands—Penalty.

Sec. 3907. (This section provides penalty for waste or trespass on State lands—see "Lord's Oregon Laws," Vol. 2, p. 1541.)

(Note.—Persons desiring to lease mining lands belonging to the State of Oregon should correspond with State Land Board, Salem, Oregon, with regard thereto.)

HOURS OF LABOR.

Hours of Labor in Underground Mines.

Sec. 5058. No person who operates any underground mine yielding gold or silver or copper or lead, or other metal shall permit or require any person to work in such underground mine for more than eight hours in any twenty-four hours, and the hours of employment in such employment or work day shall be consecutive excluding, however, any intermission of time for lunch or meals; but, in the case of emergency, where life or property is in imminent danger, persons may work in such underground mines for a longer time during the continuance of the exigency or emergency. This act shall not apply to mines in their first stages of development, such as tunnel work to a length of 200 feet, or shaft work to a depth of 150 feet, or to any surface excavation.

L. 1907, p. 311.

Penalty for Violations.

Sec. 5059. Any person, persons, body corporate, general manager or employer who shall violate, or cause to be violated any of the provisions of section 5058 of this act, shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than $50, nor more than $300, or by imprisonment of not less than thirty days, nor more than three months. And the court shall have discretion to impose both fine and imprisonment as herein provided.

L. 1907, p. 311.

MINING CLAIMS.

Mining Claims, Plurality of—When and to What Extent Allowed.

Section 5127. Any person may hold one claim by location, as hereinafter provided, upon each lead or vein, and as many by purchase as the local laws of the miners in the district where such claims are located may allow; and the discoverer of any new lead or vein not previously located upon shall be allowed one additional claim for the discovery thereof; nothing in this section shall be so construed as to allow any per-

son not the discoverer to locate more than one claim upon any one lead or vein.

L. 1864, p. 813, Sec. 3.

Location of Claim—Notice, What to Contain—Boundaries, How Marked.

Sec. 5128. Any person, a citizen of the United States, or one who has declared his intention to become such, who discovers a vein or lode of mineral-bearing rock in place upon the unappropriated public domain of the United States within this State, may locate a claim upon such vein or lode so discovered by posting thereon a notice of such discovery and location, which said notice shall contain: **first,** the name of the lode or claim; **second,** the name or names of the locator or locators; **third,** the date of the location; **fourth,** the number of linear feet claimed along the vein or lode each way from the point of discovery, with the width on each side of the said lode or vein; **fifth,** the general course or strike of the vein or lode as nearly as may be, with reference to some natural object or permanent monument in the vicinity thereof, and by defining the boundaries upon the surface of each claim so that the same may be readily traced. Such boundaries shall be marked within thirty days after posting such notice by six substantial posts, projecting not less than three feet above the surface of the ground, and not less than four inches square or in diameter, or by substantial mounds of stone, or earth and stone, at least two feet in height, to-wit: one such post or mound of rock at each corner and at the center ends of such claims.

L. 1898, p. 16, Sec. 1; L. 1901, p. 140, Sec. 1. (Amending, see Sec. 5140.)

Mineral land that has been regularly located and has for many years been in possession of persons claiming to own it is not public land subject to location. Risch v. Wiseman, 36 Or. 484, 59 Pac. 1111.

The discoverer of a lode must, in the absence of some local rule of miners or legislative regulation allowing time for exploration, immediately locate his claim by distinctly marking same on the ground so that his boundaries can be readily ascertained. Patterson v. Tarbell, 26 Or. 29, 37, Pac. 76.

Where a discoverer proceeds diligently to complete his location by marking his boundaries and otherwise complying with the law he will be protected in his right as against a subsequent locator of the same ground; but where he does not so proceed, if his location is not completed, he will not be so protected. Patterson v. Tarbell, 26 Or. 33, 37 Pac. 76.

As to the right of an alien to inherit a mining claim located upon government lands. Lohmann v. Helmer, 104 Fed. 178.

Recording Copy of Notice—Location Work.

Sec. 5129. Such locator shall, within sixty days from and after the posting of the location notices by him upon the lode or claim, file for record with the recorder of conveyances, if there be one, who shall be the custodian of mining records and miners' liens, otherwise with the clerk of the county wherein the said claim is situated, a copy of the notice so posted by him upon the lode or claim, having attached thereto an affidavit showing that the work required to be done by section 5130 has been done and performed, and shall pay to the

recorder or clerk a fee of one dollar for such record thereof, which said sum the recorder or clerk shall immediately pay over to the treasurer of such county and shall take his receipt therefor, as in case of other county funds coming into the possession of such officer. Such recorder or clerk shall immediately record such location notice and the affidavit annexed thereto. No location notice shall be entitled to record, or recorded, until the work required by section 5130 has been done and the affidavit in proof thereof is attached to the notice to be recorded.

L. 1898, p. 17, Sec. 2; L. 1901, p. 140, Sec. 2.

Work on Claim, What Required and Within What Time.

Sec. 5130. Before the expiration of sixty days from the date of the posting of the notice of discovery upon his claim as aforesaid, and before recording the notice of location as required by section 5129, the locator must sink a discovery shaft upon the claim located to a depth of at least ten feet from the lowest part of the rim of such shaft at the surface, or deeper if necessary, to show by such work a lode or vein of mineral deposit in place. A cut or crosscut or tunnel which cuts the lode at a depth of ten feet, or an open cut at least six feet deep, four feet wide and ten feet in length along the lode from the point where the same may be in any manner discovered, is equivalent to such discovery shaft. Such work shall not be deemed a part of the assessment work required by the Revised Statutes of the United States. The locator, or some one for him who did work upon and has knowledge of the facts relating to the sinking of the discovery shaft, shall make and attach to the copy of the notice of location to be recorded an affidavit showing the compliance by the locator with the provisions of this section, which affidavit shall be recorded with such copy of the location notice.

L. 1898, p. 17, Sec. 3; L. 1901, p. 141, Sec. 3.

Abandoned Claims Deemed Unappropriated Mineral Lands.

Sec. 5131. Abandoned claims shall be deemed unappropriated mineral lands, and titles thereto shall be obtained as in this act specified, without reference to any work previously done thereon.

L. 1898, p. 17, Sec. 4.

Mining Claims Are Real Estate.

Sec. 5132. All mining claims, whether quartz or placer, shall be real estate, and the owner of the possessory right thereto shall have a legal estate therein within the meaning of section 325.

L. 1898, p. 17, Sec. 5; L. 1899, p. 62, Sec. 1.

A mining claim being real estate, upon the death of the owner passes at once to the heir.

Lohmann v. Helmer, 104 Fed. 178; Duffy v. Mix, 24 Or. 265, 33 Pac. 807; Allen v. Dunlap, 24 Or. 229, 33 Pac. 675; Herron v. Eagle Min. Co., 37 Or. 157, 61 Jac. 417.

Taxation, Claim Exempt From, Prior to Patent.

Sec. 5133. Prior to the obtaining of patent from the general government of the United States to such claim, the same shall be exempt from taxation, except as to the improvements, machinery, and buildings thereon.

L. 1898, p. 17, Sec. 6.

Conveyances, Subject to Provisions Relating to Other Real Property.

Sec. 5134. All conveyances of mining claims, or of interests therein, either quartz or placer, shall be subject to the provisions governing transfers and mortgages of other realty as to execution, recordation, foreclosure, execution sale, and redemption thereunder, but such redemption by the judgment debtor must take place within sixty days from date of confirmation, or such right is lost.

L. 1898, p. 17, Sec. 7.

Redemption, Amount Required to be Paid on.

Sec. 5135. In case of redemption from sale under judgment or decree, the redemptioner shall pay such sum or sums as are now required by law for redemption under execution sale, and such additional sum as may have been expended upon the property so redeemed by the purchaser under execution, or his assigns, in order to keep alive the possessory right thereto after such execution sale, not exceeding the sum of one hundred dollars for each claim, with ten per centum interest thereon from date of such expenditure or expenditures.

L. 1898, p. 18, Sec. 8.

Ditches and Mining Flumes Real Property—Abandonment of.

Sec. 5136. Ditches and mining flumes, permanently affixed to the soil, are hereby declared to be real estate; provided, that whenever any person, company, or corporation, being the owner of any such ditch, flume, and the water right appurtenant thereto, shall cease to operate or exercise ownership over said ditch, flume, or water right, for a period of five years, and every person, company, or corporation who shall remove from this State with the intent or purpose to change his or its residence, and shall remain absent one year without using or exercising ownership over such ditch, flume, or water right, shall be deemed to have lost all title, claim, and interest therein.

L. 1898, p. 18, Sec. 9. Mattis v. Hosmer, 37 Or. 531, 535, 62 Pac. 17, 632. Ison v. Nelson Min. Co., 47 Fed. 202. Dodge v. Marden, 7 Or. 457, 48 Or. 112.

Act Applies to Locations Subsequent to Last Day of December, 1898.

Sec. 5137. Any and all locations or attempted locations of quartz mining claims within this State subsequent to the thir-

ty-first day of December, 1898, that shall not comply and be in accordance with the provisions of this act shall be null and void.

L. 1898, p. 18, Sec. 10.

Grub Staking Contracts Must be in Writing—Requirements of.

Sec. 5138. All contracts of mining copartnership, commonly known as "grub staking," shall be in writing, and filed for record with the recorder of conveyances of the county wherein locations thereunder are made. Such contracts must contain: First—the names of the parties thereto, and, Second—the duration thereof; otherwise, such contracts shall be null and void.

L. 1898, p. 18, Sec. 11.

Mines, Location of, Subject to What Prior Right.

Sec. 5139. Any location of any mining claim made upon any natural stream, or contiguous or near to any placer mine, or upon or below the dump of any placer mine, shall be subject to the prior right of all mines in operation prior to the making of such location, to discharge debris, gravel, earth, and slickens as the same was discharged, or may be discharged, at the time of making such subsequent location of mining claim or claims.

L. 1901, p. 122, Sec. 1.

Defective Location Notice, How Cured.

Sec. 5140. If at any time the locator of any mining claim heretofore or hereafter located, or his assigns, shall apprehend that the original notice of location of said mining claim was defective, erroneous, or that the requirements of the law had not been complied with before the filing of the said notice, such locator, or his assigns, may post and file for record in the manner now provided by law, an amended notice of the said location which shall relate back to the date of the original location; provided, that the posting and filing of such amended notice of location shall not interfere with the existing rights of others at the time of posting such amended notice of location.

L. 1905, p. 254, Sec. 1. (See Secs. 1981, 1989.)

Co-Owners of Mine May Perform Assessment Work.

Sec. 5141. Whenever any quartz or placer mines shall be owned by one or more persons, companies, or corporations, or when any person, company or corporation shall own any quartz or placer mines, in common with any other person, company, or corporation, any such person, company, or corporation owning an interest in said mine or mines, whether said interest be legal or equitable, shall have the right to perform the annual assessment work required by the laws of the United States and of the State of Oregon to be performed upon such mine or mines; such work, when so performed, shall, when it complies with the laws of the United States and of the State of Oregon, protect such mine or mines from relocation.

Notice and Demand Upon Delinquent Owners.

Sec. 5142. Upon the failure of any one of several co-owners of such mine or mines to contribute his proportion of the expenditures required in such assessment work, or to perform or pay for his or their proportion thereof, the co-owner or co-owners of such mine or mines who have performed or caused to be performed the said labor or assessment work, may, at the expiration of the year for which such assessment work was performed, give such delinquent co-owner or co-owners notice that the assessment work for said year has been performed, stating by whom performed, and the amount of work performed, and the dates between which the same was performed, together with a statement of the amount due from said delinquent co-owner or co-owners for his or their proportion of said assessment work, and requiring said delinquent co-owner or co-owners, within ninety days from the date of the service of said notice, to pay to the co-owner or co-owners who performed or caused to be performed such assessment work, his or their proportion thereof. Such notice shall further state that if such delinquent co-owner or co-owners shall fail or refuse to contribute his or their proportion due for the said assessment work, his or their interest in said mine or mines will become the property of such co-owner or co-owners who have performed or caused to be performed such assessment work.

Form and Service of Such Notice.

Sec. 5143. Such notice shall be in writing and signed by the co-owner or co-owners who performed or caused to be performed such assessment work, and shall be served upon said delinquent co-owner or co-owners, personally, by the sheriff of the county in which said mines are situate, if said delinquent co-owner or co-owners be within said county. If said delinquent co-owner or co-owners can be found in any other county within the State of Oregon, then such notice shall be served by the sheriff of such county in which said delinquent co-owner or co-owners then are. If said delinquent co-owner or co-owners can not be found within the State of Oregon, or if said delinquent co-owner or co-owners be at the time of giving said notice without the State of Oregon, then the service of said notice shall be made by the publication thereof in the weekly newspaper published in said county nearest to where said mines are situate; if there be two or more papers published in said county at the same distance from said mines, then the co-owner or co-owners giving such notice may elect as to which paper said notice shall be published in. If there be no weekly newspaper published within said county, then service of said notice shall be made by publication in any other weekly newspaper within the State of Oregon, published nearest the said mines; said notice shall be published at least once a week for a period of ninety days from and after the first publication thereof.

Return and Proof of Service.

Sec. 5144. If said notice shall be served by any sheriff of this State, as herein provided, such sheriff shall make return thereof by filing such notice with his return showing such service with the county recorder for the county within which such mine or mines are situate, if there be a county recorder in said county; and, if not, he shall file the same with the county clerk in such county in which said mine or mines are situate. If personal service of such notice cannot be had, as herein provided, proof of such service shall be made by the filing with the county recorder of the county in which said mine or mines are situate, if there be a county recorder, and if there be no county recorder in said county, then by filing with the county clerk of said county said notice as published, attached to an affidavit, made by the printer, foreman, or publisher of such newspaper, to the effect that such newspaper is of general circulation throughout said county, is published weekly, and that such notice was published at least once a week in said newspaper for a period of not less than ninety days from and after the first publication thereof.

Interest of Delinquent Co-Owners to Vest in Others.

Sec. 5145. That at the expiration of ninety days from the date of the personal service of said notice upon said delinquent co-owner or co-owners, or, if at the expiration of ninety days from the date of the last publication of said notice, said delinquent co-owner or co-owners shall not have paid to the co-owner or co-owners who performed or caused to be performed such assessment work, his or their proportion thereof, then the title to the interest of said delinquent co-owner or co-owners in said mine or mines shall be immediately vested in the co-owner or co-owners who performed or caused to be performed such assessment work.

Co-Owners Performing Work to File Notice, etc.

Sec. 5146. The co-owner or co-owners who performed such assessment work shall be entitled to file with the county recorder of the county where said mines are situate, or, if there be no county recorder in said county, then with the county clerk of said county, his or their affidavit or affidavits to the effect that said payment has not been made; and upon the filing of such affidavit or affidavits said county recorder or county clerk, as the case may be, shall record such notice; proof of service thereof, and affidavit or affidavits in a book kept by him for such purpose, and shall then and there issue to such co-owner or co-owners who shall have performed or caused to be performed such assessment work, a certificate to the effect that he has filed and recorded said notice, proof of service, and affidavit or affidavits of non-payment, and to the effect that such co-owner or co-owners who have performed or caused to be

performed such assessment work, have become and are the owners of all of the right, title, and interest of said delinquent co-owner or co-owners of said property.

Fee for Issuance of Certificate.

Sec. 5147. Such certificate shall not be issued until such co-owner or co-owners entitled to the same shall have paid to the said county recorder or county clerk, as the case may be, a fee of $1 for such certificate.

Counter Affidavits, Suit, Decree, etc.

Sec. 5148. If prior to the issuing of such certificate, there shall be filed with said county recorder or county clerk an affidavit or affidavits to the effect that such payment has not been made by such delinquent co-owner or co-owners, and there shall also within said time have been filed with said county recorder or county clerk an affidavit by the delinquent co-owner or co-owners that such payment has been made, then said county recorder or county clerk, as the case may be, shall not issue such certificate, but such parties shall be left to establish such fact by suit to quiet the title to said premises, and if, in such suit, it shall appear either that the assessment work was not performed by the co-owner or co-owners claiming to have performed the same, or that the delinquent co-owner or co-owners have performed or paid his or their proportion of said assessment work, then a decree shall be entered in said suit to that effect; but if, in said suit, it shall be established that said assessment has been performed by or has been caused to be performed by the co-owner or co-owners claiming to have performed, or caused the same to have been performed, and that the delinquent co-owner or co-owners have not performed their proportion thereof, or have not paid their proportion thereof, then a decree shall be entered therein decreeing the co-owner or co-owners who have performed said assessment work to be the owner or owners of all of the interest of said delinquent co-owner or co-owners in said premises, which decree shall be entitled to record in the miscellaneous records kept by the county recorder or county clerk in said county, and shall be indexed in the index with the record of deeds and mining conveyances for said county.

Certificate, Force and Effect.

Sec. 5149. Such certificate, when issued as herein provided, shall be equivalent to a deed from such delinquent co-owner or co-owners of all of their interests in and to all of said mines described in such notice, and shall convey the interest of the delinquent co-owner or co-owners in said premises to the co-owner or co-owners who performed or caused to be performed such assessment work; such certificate may be introduced in evidence in any cause where the ownership of said property may become material, and when so introduced shall have the same force and effect as would a duly executed and delivered

deed from such delinquent co-owner or co-owners of said premises.

Certified Copy of Certificate, Notice and Return, etc.

Sec. 5150. A certified copy of such certificate, and the certified copy of such notice and return when made and certified to by such county recorder or county clerk, as the case may be, shall be admissible in evidence in any trial where it is material to establish the proof of service of such notice or the ownership of said property. Such certificate, when given by such recorder or county clerk, shall be entitled to record in the office of the officer issuing the same, upon the payment of the same fees as are required for the recording of said mining conveyances; such county clerk or county recorder, as the case may be, shall keep a record book, showing the record of such certificates as shall be recorded by him, and upon recording the same, shall index the said certificates in a book kept by him for that purpose, and shall likewise index the same in the deed records of mining conveyances kept by him. Such indexing and recording shall have the same force and effect as the indexing and recording of deeds to other real property, and shall give like constructive notice.

L. 1903, p. 326, Sec. 1.

Disposal of Fees.

Sec. 5151. All fees collected under this act shall be the property of the county in which the same are collected, and shall be accounted for by the officer collecting the same, the same as other recording fees are accounted for.

L. 1903, p. 330, Sec. 2.

Mine Bell Signals, Code of.

Sec. 5152. From and after the passage of this act the following bell signals shall be used in all mines in the State of Oregon operating a steam, electrical, gasoline, or other hoisting plant, to-wit:—

1 bell.....Hoist (see Rule 2)
1 bell.....Stop (see Rule 2)
2 bells.....Lower (see Rule 2)
2-2 bells.....Calls top man to collar of shaft
3 bells.....Man to be moved, run slow (see Rule 2)
3-1 bells....Man to be hoisted, run slow (see Rule 2)
3-2 bells...Man to be lowered, run slow (see Rule 2)
4 bells.....Move bucket or cage very slow
4-1 bells.....Start pump
4-2 bells.....Stop pump
1-3 bells.....Start air compressor
2-3 bells.....Stop air compressor
5 bells.....Send down tools (see Rule 4)
6 bells.....Send down timbers (see Rule 4)
7 bells..... Accident

1-4 bells.....Foreman wanted
2-2-2 bells Change bucket from ore to water or vice versa.
3-2-1 bells.....Ready to shoot in shaft (see Rule 3)

Engineer's signal that he is ready to hoist, raise bucket or cage two feet and lower it again (see Rule 3). The bucket or cage must be raised from station six feet when not in use, notice being given to engineer to that effect, as follows: Ring one bell, hoist; and when bucket or cage up six feet, one bell, stop. Levels shall be designated and inserted in notice hereinafter mentioned (see Rule 1).

L. 1901, p. 151, Sec. 1.

Rules for Understanding and Enforcing Code of Signals.

Sec. 5153. For the purpose of enforcing and properly understanding the above code of signals, the following rules are hereby established:

Rule 1—In giving signals make strokes on bell at regular intervals. The bar (-) must take the same time as for one stroke on the bell, and no more. If timber, tools, the foreman, bucket, or cage are wanted to stop at any level in the mine, signal, by number of strokes on the bell, the number of the level first before giving the signal for timber, tools, etc. The time between the signals to be double bars (- -). Example: 6- -5, would mean, stop at the sixth level with tools; 2- -3-1, would mean, stop at the second level, man on bucket or cage, hoist; 4- -3-1, would mean, stop at the fourth level, man on bucket or cage, hoist; 2- -3-2, would mean, stop at the second level, man on bucket or cage, lower.

Rule 2—No person must get on or off the bucket or cage while in motion. When men are to be hoisted or lowered, give the signal for men; men must then get on bucket or cage; then give the signal to hoist or lower. Bell cord must be at all times within reach of man on bucket or cage.

Rule 3—After the signal, "ready to shoot in shaft," engineer must give his signal, when he is ready to hoist, i e., raise the bucket or cage two feet, then lower it again. Miners must then give signal, "men to be hoisted," then "spit fuse," get on bucket or cage, and give the signal to hoist.

Rule 4—All timbers, tools, etc., "longer than the depth of the bucket or cage," to be hoisted or lowered, must be securely lashed at the upper end to the cable. Miners must know that they will ride up or down the shaft without catching on rocks or timbers and be thrown out.

Rule 5—The foreman will see that one printed sheet of these signals and rules for each level, one for the collar of the shaft, and one for the engine room, are attached to a board not less than twelve inches wide by thirty-six inches long, and

securely fasten the board up where the signals can be easily read at the places above stated.

L. 1901, p. 152, Sec. 2.

Disobedience of Rules Precludes Recovery—Rules, etc., to be Signed.

Sec. 5154. The above signals must be obeyed. Any violation of the same will be grounds for discharge of the party or parties so doing. No person, company, corporation, or individuals operating a mine within the State of Oregon, shall be responsible for accidents that may happen to men disobeying the above rules and signals. Said rules and signals, on notice as above set out, shall be signed by the superintendent or person having charge of the mine, who shall designate the corporation or owner of the said mine.

L. 1901, p. 153, Sec. 3.

Penalty Where Company Disobeys Act.

Sec. 5155. Any person, company, corporation, or individuals operating any mine within the State of Oregon having in operation a steam, electrical, gasoline, or other hoisting plant as above described, who shall fail to comply with the terms of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than twenty-five dollars nor more than two hundred and fifty dollars.

L. 1901, p. 153, Sec. 4.

WATER RIGHTS FOR MINING.

Rights of Way for Water Ditches and Pipes.

Sec. 3940. A right of way for the construction of a water ditch to be used for irrigation, manufacturing, or mining purposes, ditches or water pipes for conveying water to cities and towns for domestic purposes, or for the extinguishment of fires, is hereby granted to any individuals or corporations who may construct such water ditches or water pipes over any of the State lands belonging to the State of Oregon—tide, swamp, and overflowed lands, and school lands—for a distance on each side of said ditches or water pipes of twenty-five feet.

L. 1885, p. 73, Sec. 2; H. C. Sec. 4058.

Copy of Notes of Survey of Ditches, etc., to be Filed.

Sec. 3941. It shall be the duty of said railroad corporation or water company or individuals constructing said railroads, water ditches or water pipes to file a copy of the field notes of the survey of such railroads, ditches or water pipes with the Secretary of State of the State of Oregon, showing the location of said railroad, water dich or water pipe.

L. 1885, p. 73, Sec. 3; H. C. Sec. 4059.

Navigation and Vested Water Rights Not to be Impaired.

Sec. 6216. Navigation shall never in anywise be impaired by the operation of this act, nor shall any vested interest in or to any mining water rights or ditches, or in or to any water or water rights, or reservoirs or dams, now used by the owners or possessors thereof in connection with any mining industry, or by persons purchasing or renting the use thereof, or in or to any other property now used, directly or indirectly, in carrying on or promoting the mining industry, ever be affected by or taken under its provisions, save and except that rights of way may be acquired over the same.

L. 1895, p. 32, Sec. 47.

Use of Water for Mining and Electrical Power a Public One.

Sec. 6551. The use of the water of the lakes and running streams of the State of Oregon for the purpose of developing the mineral resources of the State, and to furnish electrical power for all purposes, is declared to be a public and beneficial use and a public necessity, and the right to divert unappropriated waters of any such lakes or streams for such public and beneficial use is hereby granted.

(Here follows proviso that this section does not include Multonomah or Coon Creek.)

L. 1899, p. 172; L. 1907, p. 288.

Who May Use Water for Electric Power and Mining.

Sec. 6552. All persons, companies, and corporations having title or possessory right to any mineral or other lands, shall be entitled to the use and enjoyment of the water of any lake or running stream within the State for mining and other purposes in the development of the mineral resources of the State or to furnish electrical power for any purposes; and such waters may be made available to the full extent of the capacity thereof without regard to deterioration in quality or diminuation in quantity, so that such use of the same does not materially affect or impair the rights of prior appropriations.

L. 1899, p. 172, Sec. 2.

Right of Way and Reservoir Sites May be Condemned.

Sec. 6553. All such persons, companies, and corporations may appropriate and divert such waters, and may condemn right of way for ditches, canals, flumes, and pipe lines for the carrying of same, and may condemn the rights of riparian proprietors upon the lake or stream from which such appropriation is made, upon complying with the terms of this act. Such persons, companies, and corporations shall also have the right to condemn lands for the sites of reservoirs for storing water for future use, and for rights of way for feeders carrying water to such reservoirs, and for ditches, canals, flumes, or pipe lines carrying the same away, and shall have the right to take from any lake or running stream in this State and

store away any water not previously appropriated or not needed for immediate use by any person having a superior right thereto.

L. 1899, p. 172, Sec. 3.

Land May be Entered Upon for Surveys and Location.

Sec. 6554. Such persons, companies, and corporations may enter upon any land for the purpose of locating a point of diversion of the water intended to be appropriated, and upon any land lying between such point and the lower terminus of its proposed ditch, canal, flume, or pipe line for the purpose of examining the same and of locating and surveying the line of such ditch, canal, flume, or pipe line, together with the line of necessary distributing ditches and feeders for reservoirs, and to locate and determine the site for reservoirs for storing water.

L. 1899, p. 173, Sec. 4.

Appropriator Must Post Notice.

Sec. 6555. When a point of diversion shall have been selected, such appropriator shall post in a conspicuous place thereat a notice in writing containing a statement of the name of the ditch, canal, flume, or pipe line and of the owner thereof, the point at which its head gate is proposed to be constructed, a general description of the course of said ditch, canal, flume, or pipe line, the size or dimensions of the same in width and depth, the number of cubic inches of water (by miners' measurement under a six-inch pressure) intended to be appropriated, and the number of reservoirs, if any.

L. 1899, p. 173, Sec. 5.

Maps of Description and Definite Location to be Filed.

Sec. 6556. Within ten days from the date of posting such notice, such appropriator shall file for record in the office of the county clerk or recorder of conveyances, as the case may be, of the county in which said ditch or canal or flume or pipe line, distributing ditches, reservoirs, and feeders are situated, a similar notice, and at the same time shall file a map showing the general route of said ditch or canal or flume or pipe line; and in case said ditch or canal or flume or pipe line, distributing ditches, reservoirs, and feeders shall not lie wholly in one county, such notice and map shall be filed in the office of the county clerk or recorder of conveyances of each county in which any portion of said ditch or canal, flume, pipe line, distributing ditches, reservoirs, and feeders may be situated. Within sixty days from the completion of such ditch or canal or flume or pipe line, such appropriator shall in like manner file a map of definite location of said ditch or canal or flume or pipe line, by legal subdivisions of the land traversed thereby in case it is surveyed, with the points of location of reservoirs, if any, designated thereon. It shall be the

duty of every county clerk or recorder of conveyances, immediately upon the filing of such notice in his office, to record the same in a book kept for such purpose, and he shall file and preserve such maps among the records of his office.

L. 1899, p. 173, Sec. 6.

Appropriator May Proceed to Condemn Right of Way.

Sec. 6557. When such person, company, or corporation shall have acquired the right to appropriate water in the manner hereinbefore provided, it may proceed to condemn lands and premises necessary for right of way for its ditch or canal or flume or pipe line, and likewise for its distributing ditches and feeders and for sites for reservoirs; but right of way for the main line of said ditch or canal or flume or pipe line shall not exceed fifty feet in width, and for each distributing ditch or feeder thirty feet in width, and for a site for each reservoir twenty acres from one owner, or for every ten thousand inches of water (miners' measurement, as aforesaid), or fraction thereof over half, of the capacity of the main ditch or canal or flume or pipe line for every twenty miles of its length.

L. 1899, p. 174, Sec. 7.

Mode of Procedure to Condemn.

Sec. 6558. Whenever any person, company, or corporation authorized as hereinbefore provided to appropriate water and to construct and maintain a ditch or canal or flume or pipe line for mining purposes, or to furnish electrical power for any purpose, and to condemn lands for right of way and sites for reservoirs, is unable to agree with the owner of such lands as to compensation to be paid therefor, or if such owner be absent from the State or incapable of acting, such person, company, or corporation may maintain an action in the circuit court of the county in which the lands sought to be appropriated or some portion thereof are situated, for the purpose of having such lands appropriated to its use and for determining the compensation to be paid to such owner therefor. The proceedings in such action, to final determination, shall be the same as those prescribed in Chapter II of Title XLI.

L. 1899, p. 174, Sec. 8.

Appropriation Below Contiguous Owners' Point of Diversion.

Sec. 6559. Such persons, companies, and corporations may also maintain an action for the condemnation and appropriation of the right to the flow of water in any stream from which it or they propose to divert water below the point of diversion vested in the owners of lands lying contiguous to such stream by virtue of their location. Such action shall be brought in the county where the lands to be affected, or some portion thereof, are situated, and the manner of procedure therein shall be similar to that prescribed for the condemna-

tion of lands in Chapter I of Title XLV; provided, that no person owning lands lying contiguous to any natural stream shall, without his consent, be deprived of water for household or domestic use, or for the purpose of watering his stock, or of water necessary to irrigate crops growing upon such lands, and actually used therefor, nor shall the rights of any prior appropriator, without his consent, be materially affected or impaired, regardless of whether such appropriation was made for use upon riparian or nonriparian land.

L. 1903, Special Session, p. 25, Sec. 1.

Actual Construction, When to be Begun.

Sec. 6560. Within six months from the date of the posting of the notice above prescribed, the persons, companies, and corporations proposing to appropriate the water therein mentioned shall commence the actual construction of their or its proposed ditch or canal or flume or pipe line, and shall prosecute the same without intermission (except as resulting from the act of God, the elements, or unavoidable casualty) until the same be completed; and the actual capacity of said ditch or canal or flume or pipe line when completed shall determine the extent of the appropriation, anything contained in the notice to the contrary notwithstanding. Upon a compliance with the provisions of this act, the right to the use of the water appropriated shall relate back to the date of posting said notice.

L. 1899, p. 174, Sec. 10.

Existing Appropriations Upheld.

Sec. 6561. All existing appropriations of water made for beneficial purposes by any persons, corporation, or company, in accordance with the laws of the United States, or in accordance with the laws of the State of Oregon or the decisions of the supreme court, or the established customs and regulations of the district in which such appropriations have been made, shall be respected and upheld to the extent of the amount of water actually appropriated, nor shall any existing mill be deprived of its water power, however lawfully acquired, without the consent of its owner; and all controversies respecting rights to water under the provisions of this act shall be determined by the date of the appropriations as respectively made thereunder by the parties.

L. 1899, p. 175, Sec. 11.

Extension of Ditch to Conform to Changes Requiring It.

Sec. 6562. In case the channel of any natural stream shall become so cut out, lowered, turned aside, or otherwise changed, from any cause, as to prevent any ditch or canal or flume or pipe line or feeder of any reservoir from receiving the proper inflow of water to which it may be entitled from such natural stream, the persons, companies, or corporations owning such ditch or canal or pipe line, flume, or feeder shall have the

right to extend the head of such ditch or canal or pipe line, flume, or feeder to such distance upon the streams which supplies the same as may be necessary for securing a sufficient flow of water into the same; and for such purpose such persons, companies, or corporations shall have the same right to maintain proceedings for condemnation of right of way for such extension as in case of constructing a new ditch, and the priority of right to take the water from such stream through any ditch or canal or pipe line, flume, or feeder shall be unaffected in any respect by reason of a change in the place of diversion; provided, no such change shall interfere with the complete use or enjoyment of any other ditch or canal, pipe line, flume, or feeder lawfully constructed; and when from any cause the line of any ditch or canal, pipe line, flume, or feeder along the line of common user, by reason of the faulty construction of such portion of such ditch, canal, flume, or pipe line, and the persons, companies, or corporations securing the use of the same shall be liable to the owner persons, companies, or corporations for all damages by it sustained growing out of the enlargement of said ditch, canal, flume, or pipe line, or the increased volume of water turned therein.

Bond for Payment of Costs of Change.

Sec. 6563. Before proceeding to secure the right to make use of any portion of the ditch, canal, flume, or pipe line, the persons, companies, or corporations seeking to secure the same shall execute and deliver to the owner persons, companies, or corporations a bond with sufficient sureties in an amount equal to the original cost of construction and the estimated cost of enlargement of the portion of said ditch, canal, flume, or pipe line sought to be subjected to a double use, conditional for the payment on demand to the owner persons, companies, or corporations of a reasonable proportion of the original cost of construction of such portion of said ditch, canal, flume, or pipe line and of the cost of enlargement thereof, together with a reasonable proportion of the cost of its maintenance as enlarged and of all damages that may at any time accrue to the owner persons or companies or corporations and for which it shall have a right of recovery against said other persons, companies, or corporations by reason of the provisions of this section; provided, that in case the persons, companies, or corporation owning said ditch, canal, flume, or pipe line shall object to the amount or sufficiency of the sureties on such bond, it shall serve upon the corporations, companies, or persons desiring to use such ditch, canal, flume, or pipe line within ten days after receiving said bond a notice specifying particularly the objections thereto, and the sufficiency of the sureties, or the amount of the bond shall be determined by the judge of the circuit court of the county where said ditch, canal, flume, or pipe line is situated, and said judge may hear evidence at

chambers in relation * * * as originally constructed can no longer be maintained, the persons, companies, or corporations owning the same may alter the course thereof and for such purpose may condemn lands for right of way as in case of original construction.

L. 1899, p. 175, Sec. 12.

Shortest Practicable Route Must be Selected.

Sec. 6564. Whenever it becomes necessary to construct any ditch, canal, flume, pipe line, distributing ditches, or feeders across the improved or occupied lands of another, under the provisions of this act such persons, companies, or corporations shall select the shortest and most direct route practicable, having reference to cost of construction, upon which said ditch, canal, flume, pipe line, distributing ditches, or feeders can be constructed with uniform or nearly uniform grade.

L. 1899, p. 177, Sec. 13.

Land Not to be Burdened With More Than One Ditch.

Sec. 6565. No tract or parcel of improved or occupied land in this State shall, without the written consent of the owner thereof, be subjected to the burden of two or more ditches or canals, flumes, or pipe lines, constructed under this act for the purpose of conveying water through said property when the same object can be feasibly and practically attained by uniting and conveying all the water necessary to be conveyed through such property in one ditch, canal, flume, or pipe line, and any persons, companies, or corporations having constructed a ditch, canal, flume, or pipe line for the purpose hereinbefore provided shall allow any other persons, companies, or corporations to enlarge such ditch, canal, flume, or pipe line, so as not to interfere with the operations of the persons, companies, or corporations owning the same, and use such ditch, canal, flume, or pipe line in common with the persons, companies, or corporations owning the same, upon payment to such persons, companies, or corporations of a reasonable proportion of the cost of constructing and maintaining such ditch, canal, flume, or pipe line. Such persons, companies, or corporations shall be jointly liable to any person damaged.

L. 1899, p. 177, Sec. 14.

Natural Depressions in Earth May be Utilized.

Sec. 6566. In constructing a ditch, canal, flume, or pipe line, distributing ditches or feeders, under the provisions of this act, the owner or owners thereof may make use of natural depressions in the earth along the line thereof to all intents and purposes as parts of said ditch, canal, flume, or pipe line, distributing ditches or feeders; and it may conduct the water appropriated by it along the channel of any natural stream, but not so as to raise the water thereof above ordinary high-water mark, and may take the same out again at any point desired without regard to the prior rights of others to water from

said stream, but due allowance shall be made for evaporation and seepage.

L. 1899, p. 177, Sec. 15.

Head Gates Must be Maintained.

Sec. 6567. The owner or owners of every ditch, canal, flume, or pipe line constructed under the provisions of this act shall be required to erect and keep in good repair a head gate at the head of its ditch, canal, flume, or pipe line, which, together with the necessary embankments shall be of sufficient height and strength to control the water at all ordinary stages. The framework of such head gate shall be of timber not less than four inches square, and the bottom, sides, and gate or gates shall be of plank not less than two inches in thickness.

L. 1899, p. 177, Sec. 16.

Liability for Damages From Leakage or Overflow.

Sec. 6568. The owner or owners of every ditch, canal, flume, or pipe line constructed under the provisions of this act shall be liable for all damages done to the persons or property of others, arising from leakage or overflow of water therefrom growing out of want of strength in the banks or walls, or negligence or want of care in the management of said ditch, canal, flume, or pipe line, or reservoir; provided, that damages resulting from extraordinary and unforeseen action of the elements, or attributed in whole or in part to the wrongful interference of another with said ditch, canal, flume, pipe line, or reservoir, which may not be known to said corporation for such length of time as would enable it by the exercise of reasonable efforts to remedy the same, shall not be recovered against said corporations, companies, or persons.

L. 1899, p. 178, Sec. 17.

Bridges at Road Crossing, Liability for Neglect to Build.

Sec. 6569. The owner or owners of every ditch, canal, flume, or pipe line constructed under the provisions of this act across any public highways or public traveled road shall put a good substantial bridge, not less than fourteen feet in breadth, over such ditch, canal, or flume where it crosses said highway or road. Travel shall not be suspended by the construction of said ditch, canal, flume, or pipe line, and such bridge shall be completed within three days from the time said highway or road is intersected. In case such bridge is not so constructed and completed, it shall be the duty of the road supervisor of the road district in which the point of intersection is situated to construct said bridge, and he shall bring an action in his own name, as supervisor, for the use and benefit of his road district, in any court of competent jurisdiction, to recover the expense of constructing said bridge; and in such action, in addition to the costs and disbursements provided by statute, he shall recover such sum as the court or justice, if the action be brought

in a justice's court, may adjudge to be reasonable as attorney fees in said action. Appeals may be taken in such cases as in other actions.

L. 1899, p. 178, Sec. 18.

Embankments and Reservoirs Must be Built and Kept so as to Prevent Damage.

Sec. 6570. The owner or owners of every ditch, canal, flume, or pipe line constructed under the provisions of this act shall carefully keep and maintain the embankments and walls thereof, and of any reservoir constructed to be used in conjunction therewith, so as to prevent the water from wasting and from flooding or damaging the premises of others; and it shall not divert at any time any water for which it has not actual use or demand.

L. 1899, p. 178, Sec. 19.

Right to Appropriate Lost by Abandonment.

Sec. 6571. The right to appropriate water thereby granted may be lost by abandonment; and if any persons, companies, or corporations constructing a ditch, canal, flume, or pipe line under the provisions of this act shall fail or neglect to use the same for a period of two years at any time, it shall be taken and deemed to have abandoned its appropriation, and the water appropriated shall revert to the public and be subject to other appropriations in order of priority; but the question of abandonment shall be one of fact, to be tried and determined as other questions of fact.

L. 1899, p. 179, Sec. 20.

Willful Injury to Ditch, etc., Penalty for.

Sec. 6572. Any person who shall knowingly and willfully cut, dig, break down, or open any gate, bank, embankment, or side of any ditch, canal, flume, or pipe line, feeder, or reservoir, constructed under the provisions of this act, the property of another, with intent maliciously to injure the owner or owners of such property or any other person, or for his or her own gain, by unlawfully causing the water contained in said ditch, canal, flume, pipe line, feeder, or reservoir to run or pour thereout with intent of stealing the same or appropriating it for his or her own gain, profit, benefit, or advantage, without the consent of the owner or owners thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than three hundred dollars, or by imprisonment in the county jail, not less than one month nor more than one year. Justices' courts shall have jurisdiction of all prosecutions arising under this section. The person so trespassing shall also be liable for all damages caused by his or her act to the owner or owners of said property, or any person or persons injured by his or her wrongful act.

L. 1899, p. 179, Sec. 21.

Parties in Suits for Protection of Water Rights.

Sec. 6573. In any suit which may hereafter be commenced for the protection of rights to water acquired under the provisions of this act, the plaintiff may make any and all persons who have diverted water from the same stream or source parties to such suit, and the court may in one decree determine the relative priorities and rights of all parties to such suit. Any person claiming a right on said stream or source, not made a party to such suit, may become such on application to the court, when it is made to appear that he is interested in the result of the suit, and may have his right determined; and the court may, at any stage, on its own motion, require any or all persons having or claiming rights to water on said stream or source to be brought in and made parties to said suit, when it appears that a complete determination of the issue involved cannot be made without the presence of such person or persons.

L. 1899, p. 179, Sec. 22.

Rights of Way Over State Lands.

Sec. 6574. The right of way, to the extent hereinbefore specified, for the ditches or canals, flumes, pipe lines, distributing ditches, and feeders of any persons, companies, or corporations appropriating water under the provisions of this act, across any and all lands belonging to the State of Oregon, and not under contract of sale, is hereby granted.

L. 1899, p. 180, Sec. 23.

MINING CORPORATIONS.

(See also whole of Title XLIV, "Lord's Oregon Laws," for formation of corporations generally.)

Of What Corporations and on What Conditions Majority of Directors May be Non-residents—Meetings Out of State.

Sec. 6690. A majority of the directors of any corporation incorporated under the laws of this State for the puspose in whole or in part of and actually engaged as its principal business in acquiring, owning, or working mines,or acquiring, owning or operating quartz mills, reduction works, smelters, or power plants for mining purposes, or acquiring, constructing or operating steam or electric railroads as a common carriermay, while such corporation is so engaged in the business aforesaid as its principal business, and no longer, reside out of the State of Oregon, and any such corporation may have offices and officers without said State, and meetings of its directors may be held without the State of Oregon; but at least one director of every said corporation shall reside in this State, and every such corporation, if its president does not reside in this State, must at all times maintain within the State, and within the county where its principal office and place of business is located, an agent upon whom any and all summons, writs and process issued to or against such corporation by the courts of this State, or

the courts of the United States holding terms therein, may be served, and shall file with the Secretary of State, with its annual statement, and at other times when its agents shall cease to serve as such, die or otherwise become disqualified, a power of attorney, appointing a person therein named as its duly authorized agent, stating his full name and residence, and service of any summons, writ or process upon such agent shall be equivaleent to service upon the president or other proper officers of such corporation; if the president of such corporation does not reside within the State of Oregon, and the corporation shall fail or neglect to maintain such an agent upon whom service may be had, the statute of limitations shall cease to run in favor of such corporation during the period when such failure or neglect shall continue.

L. 1905, p. 322; L. 1907, p. 288.

Sec. 6713. Every corporation formed or organized under and pursuant to the laws of the State of Oregon, whether now existing or hereafter created, for the purpose of engaging in the business of mining for any of the precious metals, and whose business it shall be to engage in said business only, shall, during the month of June of each year, and on or before the first day of July of each year, furnish to the Secretary of State, upon blanks to be supplied by him for that purpose, a correct statement sworn to by one of its officers before some officer authorized to administer oaths, setting forth in detail the name of the corporation, the location of its principal office, the names of the president, secretary, and treasurer thereof, with the postoffice address of each, the date of the annual election of officers and directors of such corporation, the amount of the authorized capital stock, the number of shares and par value of each share, the amount of the capital stock subscribed, the amount of capital stock issued, and the amount of the capital stock paid up, the amount of its properties in this State and where the same are located; also stating in general terms the amount of work done thereon, and improvements made thereon since the time of filing the last annual report, together with a statement of the amount and value of the annual output or products of the mines of such corporation, between the first day of January and the thirty-first day of December of the year preceding, and that said corporation is not engaged in or transacting any other business except that of locating, prospecting, developing or operating mines for precious metals, and any such mining corporation whose annual output or products shall not exceed in value the sum of one thousand dollars, shall if such above-provided statement is filed in the office of the Secretary of State during the month of June and on or before the first day of July of each year, thereupon be exempt from the payment of the annual license fee as now provided by law, but in lieu thereof shall pay an annual license fee of ten dollars; provided, that no such corporation shall be

required to make such statement if it shall file the statement and pay the annual license fee required by, "An Act to provide for the licensing of domestic corporations and foreign corporations, joint stock companies, and associations," etc., approved February 16, 1903, or hereafter required by law.

New Amendment of Sec. 6713 of Feb. 8, 1911.

Statement of License Fees—Failure to Pay—Liabilities.

Sec. 6714. On or before the fifteenth day of July of each year, the Secretary of State shall file with the State Treasurer a statement showing the amount of license fee due, as ascertained in the foregoing manner, from the different corporations hereinbefore referred to. Within thirty days thereafter, every such corporation shall pay or cause to be paid to the State Treasurer the license fee hereinbefore mentioned. Any such corporation failing or refusing to render such statement, or to amend the same when required to do so by the Secretary of State, in case the same shall be incomplete, irregular, or unsatisfactory, or to pay such license fee, for more than twenty days after the time above specified, or any corporation, joint stock company, or association doing business in this State contrary to this act, shall be liable to a fine of ($100) one hundred dollars, to be recovered, together with any license fee due by an action at law in the name of the State, to be instituted by any district attorney of the State at the request of the Secretary of State. The annual license fee required by this act shall be paid in advance for the fiscal year beginning July 1 of each year, and in case of new corporations formed during the fiscal year, the first year's fee shall be proportioned to such fraction of a year.

L. 1905, p. 376, Sec. 2.

Mining and Other Private Corporations May Condemn Land.

Sec. 6857. Any corporation organized for the purpose of opening or operating any gold, or silver, or copper vein or lode, or any coal or other mine; or any marble, stone, or other quarry; or for cuttingor transporting timber, lumber or cordwood, or for the manufacture of lumber, shall have the right to construct and operate railroads, skid roads, tramways, chutes, and flumes between such points as may be indicated in their articles of incorporation, and shall have a right to enter upon any land between such points for the purpose of examining, locating, and surveying the line of such railroads, skid roads, tramways, chutes and flumes, doing no unnecessary damage thereby, and such corporation shall have the power to appropriate so much of said land as may be necessary for the same not exceeding sixty feet in width, and may maintain an action for the appropriation thereof in the manner and form as by law provided by any railway, macadamized road, plank road, clay road, canal, or bridge, and with like effect.

L. 1895, p. 6.

LIENS OF MINERS, ETC.

Liens of Laborers, Material Man, etc.

Section 7444 to section 7450 inclusive, provide for liens on mines for laborers' wages and for value of material furnished for mines, also time for filing same and procedure to enforce such liens. (Too long for this book.)

LOCATION NOTICE—LODE CLAIM.

For this form use same as given for Arizona (see page 37).

LOCATION NOTICE—PLACER CLAIM.

For this form use same as given for California (see end of California Laws).

AFFIDAVIT OF ANNUAL LABOR.

For this form use same as given for Arizona.

TO ATTORNEYS

I would advise you that I have in my office a complete set of Arizona Statutes, decisions and forms which you are welcome to use at any time.

I have associates, mostly attorneys, who can act as agents for corporations, in all the principal towns of Arizona, and I can thus quickly and carefully assist you to incorporate. Correspondence with attorneys on Arizona practice will be cheerfully answered to assist them in their business. I was for many years District Attorney in Arizona and have been in this line of business for 20 years. You can save yourself a great deal of trouble and possible error by handing or sending your original articles (and two copies) to me, and my associate in Arizona will attend to filing and publishing and return all papers to you promptly.

We are also prepared to hold stockholders' meetings anywhere in Arizona by proxy when desired.

If you have occasion to associate counsel with you in any mining litigation in Arizona, I would have you know that either my father, Gen. Thos. F. Wilson, or myself attend all terms of Court in Phoenix (Maricopa County), Yuma (Yuma County), Nogales (Santa Cruz County), Florence (Pinal County), Tombstone (Cochise County), and Tucson (Pima County). We have had from fifteen to twenty years' experience in mining litigation in Arizona.

We can also assist you to obtain patents to mining claims or agricultural entries either through the local U. S. Land Offices at Phoenix, Arizona, or Los Angeles, California, or the Departments in Washington.

Gen. Thos. F. Wilson resides at Tucson, Arizona, where he was United States Attorney. We will be glad to be associated in any class of general law business you may have in Arizona.

I refer by permission to Hon. W. J. Hunsaker, Hon. E. W. Camp, and Messrs. Works, Lee & Works, Attorneys, Los Angeles, California.

CALVERT WILSON,
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Reynold E. Blight

CERTIFIED PUBLIC ACCOUNTANT

609 HIBERNIAN BUILDING

LOS ANGELES

AUDITS INVESTIGATIONS

CORPORATION ACCOUNTING A SPECIALTY

RE-ORGANIZATION OF ACCOUNTING SYSTEMS

MINING LAWS OF UTAH

(See also U. S. Mining Laws.)

Section 1495. (Extent. No location to be made until discovery of vein.) A Mining Claim, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. Any lode mining claim may extend three hundred feet on each side of the middle of the vein at the surface, except where adverse rights render a lesser width necessary. The end lines of each claim must be parallel.

1 Utah 173, 2 Utah 174, 22 Utah 438, 23 Utah 410.

Sec. 1496. (Monument Notice.) The locator at the time of making the discovery of such vein or lode, must erect a monument at the place of discovery, and post thereon his notice of location, which notice shall contain:

1st. The name of the lode or claim.

2nd. The name of the locator or locators.

3rd. The date of the location.

4th. If a lode claim, the number of linear feet claimed in length along the course of the vein each way from the point of discovery, with the width on each side of the center of the vein, and the general course of the vein or lode, as near as may be, and such a description of the claim, located by reference to some natural object or permanent monument as will identify the claim.

5th. If a placer or millsite claim, the number of acres or superficial feet claimed, and such a description of the claim or millsite located by reference to some natural object or permanent monument as will identify the claim or millsite.

5 Utah 3, 1 Utah 292, 2 Utah 54, 3 Utah 94, 3 Utah 59, 111 U. S. 350, 3 Utah 77, 3 Utah 235, 7 Utah 8, 151 U. S. 317, 160 U. S. 303, 6 Utah 273, 130 U. S. 256, 4 Utah 521, 116 U. S. 418, 124 U. S. 326, 2 Utah 174, 7 Utah 515, 160 U. S. 303, 10 Utah 266, 11 Utah 324, 9 Utah 192, 3 Utah 160, 98 U. S. 463, 2 Utah 355.

Sec. 1497. (Boundaries Marked.) Mining Claims and mill sites must be distinctly marked on the ground, so that the boundaries thereof can be readily traced.

Sec. 1498. (Filing Copy of Notice. Fee.) Within thirty days from the date of posting the location notice upon the claim the locator or locators, or his or their assigns, must file for record in the office of the County Recorder of the county

in which such claim is situated, if said claim be situated without and beyond an original mining district, a substantial copy of such notice of location. Such County Recorder shall charge and collect a fee of 50c for first folio, and for each additional folio, 20c; and, providing further, that where more than two locators sign the said notice of location, an additional fee of 10c shall be charged for each additional name, said fee shall be for filing, recording, indexing and abstracting such notice; provided, that such notice of location shall not be abstracted unless a subsequent conveyance affecting the same property be filed for record, when said notice shall be abstracted.

Sec. 1499. (Notice of assessment work being done.) Every person or company owning a group of claims, and doing the development or assessment work, for said group at one point, shall post a notice upon each claim at the discovery monument, stating where such work is being done, and also post a notice at the entrance of the workings, where said work is done, stating the names of the claims for which the work is done.

Sec. 1500. (Filing affidavit of work done.) The owner of any quartz lode or placer mining claim who shall do or perform, or cause to be done or performed the annual labor or improvements required by the laws of the United States, in order to prevent a forfeiture of the claim, must, within thirty days after the completion of such work or improvements, file in the office of the county recorder in which the greater part of the mining district, in which such claim is located, is situated, his affidavit or an affidavit or affidavits of the person or persons who performed or directed such labor or made or directed such improvements, and shall file a duplicate thereof with the district mining recorder of the district in which said claim is situated, showing:

1st. The name of the claim, and where situated.

2nd. The number of days work done and the character and value of the improvements placed thereon.

3rd. The date or dates of performing said labor and making said improvements and number of cubic feet of earth or rock removed.

4th. At whose instance or request said work was done, or improvements made.

5th. The actual amount paid for said labor and improvements, and by whom paid, when the same was not done by the owner or owners of said claim.

Such affidavits or duly certified copies thereof shall be prima facie evidence of the facts therein stated.

111 U. S. 350, 6 Utah 183, 160 U. S. 303.

Sec. 1501. (Reorganization of mining districts.) Mining districts may be organized, and all existing districts may be reorganized, and the rules and regulations of the said

mining district shall govern the said district according to the laws of the United States, in cases where a district organization is desired; PROVIDED, that the nearest boundary line of any mining district shall not be within ten miles from the county recorder's office of any county.

Sec. 1502. (Copying records. Expense.) Upon application of the district mining recorder of any mining district to the board of county commissioners of the county having in custody the records of the said mining district, the said board of county commissioners shall cause the records of such district to be copied by the county recorder, and shall cause all records of documents pertaining to district mining records, recorded since June 4th, 1896, up to the time of delivery, to be recorded in the original records of the mining district in which the property is situated, and the original records when so amended shall be delivered to such district mining recorder. The copy so made shall remain in the office of the county recorder, and shall be considered as the original record. One-half of the expense of copying such records shall be paid out of the county treasury, and one-half shall be paid out of the state treasury.

Sec. 1503. (Duplicate Notice of Location. Fee. Penalty.) It shall be the duty of every district mining recorder to require every person depositing for record a notice of location to make a duplicate copy thereof, which copy said mining recorder shall carefully compare with the original and mark "duplicate" and endorse thereon his name and the date and hour of filing in his office of the original. He shall at time of filing duplicate notice with the original, collect, in addition to his own fee, the fee for the County Recorder for recording such duplicate. Said fee to be computed at the rate of 50c for the first folio, and for each additional folio 20c; and, providing further, that where more than two locators sign the said notice of location, an additional fee of 10c shall be charged for each additional name. He shall immediately deposit the duplicate copy with the County Recorder of the county in which the greater part of the said mining district is located for record, or forward the same to him by mail or express, or in such other manner as will insure safe transit and delivery. The fee, computed as hereinbefore described, shall accompany the duplicate. The County Recorder shall record said duplicate with the endorsements thereon for said fee. The record of said duplicate notice in the office of the County Recorder shall be considered an original record. Every person neglecting or refusing to comply with any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $300, or by imprisonment in the county jail, not exceeding six months, or by both such fine and imprisonment.

Approved March 11, 1909.

Sec. 1504. (Copies of notices to be received as evidence.) Copies of notices of location of mining claims, mill sites and tunnel sites, heretofore recorded in the records of the several mining districts, and copies of the mining rules and regulations in force in the several mining districts, in like manner recorded, heretofore duly certified by the mining recorder, shall be receivable in all tribunals and before all officers of this state as prima facie evidence.

Sec. 1505. Where books, records and documents pertaining to the office of district mining recorder have been or shall hereafter be deposited in the office of any county recorder of this state, such county recorder is authorized to make and certify copies therefrom, and such certified copies shall be receivable in all tribunals and before all officers of this state in the same manner and to the same effect as if such records had been originally filed or made in the office of the county recorder.

Sec. 1506. (County Recorder to Record Rules. Certified Copies.) It shall be the duty of each county recorder to record the mining rules and regulations of the several mining districts in his county without fee, and certified copies of such records shall be received in all tribunals and before all officers of this state as prima facie evidence of such rules and regulations, and it shall be his duty to record, index and abstract all mining location notices presented for record, for a fee not to exceed seventy-five cents for each notice and to file and index all affidavits of labor presented for filing affecting one mining claim for a fee not to exceed twenty-five cents; PROVIDED, that when an affidavit of labor contains the name of more than one mining claim, an additional fee of ten cents shall be charged for each additional claim named therein.

Sec. 1506x. (Recorder of Mining District to give Bond.) The recorder of each mining district shall take the oath of office and give bond with sureties in the penal sum of one thousand dollars. Such bond must be approved by the district judge and filed in the office of the county clerk of the county in which the greater part of the said mining district is located. Where the recorder of any mining district appoints a deputy, the recorder and his bondsmen shall be responsible for the official acts of such deputy.

Sec. 1506xi. (District Recorder to make Copies.) It shall be the duty of the recorder of a mining district upon request and payment or tender of the fees therefor, to make and deliver to any person requesting the same, duly certified copies of any records in his custody, and for a failure so to do, or for receiving larger fees for any such service than those provided he shall be deemed guilty of a misdemeanor.

Sec. 1506xii. (Vacancy. County Recorder to Receive Records.) Whenever there is a vacancy in the office of recorder of any

mining district, or the person holding such office shall remove from the district, leaving therein no qualified successor in office; or whenever from any cause there is no person in such district authorized to retain the custody and give certified copies of the records, it shall be the duty of the person having custody of the records to deposit the same in the office of the county recorder of the county in which such mining district or the greater part thereof is situated, and the county recorder shall receive such records, and is hereby authorized to make and certify copies therefrom, and such certified copies shall be received in evidence in all courts and before all officers and tribunals. The production of a certified copy so made, shall be, without other proof, evidence that such records were properly in the custody of the county recorder.

REVISED STATUTES.

Sec. 1337. (In Mines and Smelters.) The period of employment of working men in all underground mines or workings, and in smelters and all other institutions for the reduction or refining of ores or metals, shall be eight hours per day, except in cases of emergency where life or property is in imminent danger. Any person, body corporate, agent, manager or employer who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor.

14 Utah 96, 14 Utah 71.

Sec. 1338. (This Section makes it a misdemeanor to employ any child under 14 years or any female in any mine or smelter.)

Sec. 1381. (Liens on Mines.) The provisions of this chapter shall apply to all persons who shall do work or furnish materials for the working, preservation, or development of any mine, lode, mining claim, or deposit yielding metals or minerals of any kind, or for the working, preservation, or development of any such mine, lode, or deposit in search of such metals or minerals, and to all persons who shall do work or furnish materials upon any shaft, tunnel, incline, adit, drift, drain, or other excavation of any such mine, lode, or deposit; PROVIDED, that when two or more such lodes or deposits, owned or claimed by the same person or persons, or where the owners are different persons, and the same with the consent of all shall be worked through a common shaft, tunnel, incline, adit, drift, or other excavation, then all the mines, lodes, or deposits so worked shall, for the purpose of this chapter, be deemed one mine.

6 Utah 351, 151 U. S. 447, 104 U. S. 176.

Sec. 1382. (Id. Attaches to Lessee's Interest.) The next preceding section shall not be deemed to apply to the owner or

owners of any mine, lode, deposit, shaft, tunnel, incline, adit, drift or other excavation when the same shall be worked by a lessee, under bond or otherwise; but, in such case, the persons entitled to a lien under this chapter shall have a lien on the leasehold interest and on the ores and mineral bearing rock or dirt mined and excavated by the lessee.

Sec. 1535. (Interfering with Notices, Stakes, Persons in possession, or Records.) Any person or persons who shall willfully or maliciously tear down or deface a notice posted on a mining claim, or take up or destroy any stake or monument marking any such claim, or interfere with any person lawfully in possession of such claim, or who shall alter, erase, deface, or destroy any record kept by a mining recorder, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five, nor more than one hundred dollars, or by imprisonment for not less than ten days, nor more than six months, or by both such fine and imprisonment. Justices of the peace shall have jurisdiction of such offenses.

Sec. 1536. (Wrongful taking of Ores. Damages.) Any person wrongfully entering upon any mine or mining claim, and carrying away ores therefrom, or wrongfully extracting and selling ores from any mine, shall be liable to the owner or owners of such ore for three times the value thereof; and should the plaintiff file his affidavit that the defendant did unlawfully take ores, the defendant may be arrested and held to bail, as in cases for the recovery of the possession of personal property unjustly detained.

FENCING, SHAFTS, ETC.

Sec. 1538. (Inclosing shaft.) Any person that has sunk or shall sink a shaft or well on the public domain, or commons, for any purpose, shall inclose such shaft or well with a substantial curb or fence, which shall be at least four and a half feet high.

Sec. 1539. (Id. Pits. Slack coal burning.) The owner, lessee or agent of any mine, who, by working such mine, has caused or may hereafter cause the surface on the public domain, commons, highway, or other lands to cave in and form a pit in which persons or animals are likely to fall, shall cause such cave or sink to be filled up, or to be securely fenced with a good, lawful fence; and if he has heaped or piled, or shall hereafter heap or pile, slack coal on the surface, and such slack coal shall take fire and endanger the life or safety of any person or animal, he shall cause the fire to be extinguished, or the burning coal to be inclosed with a sufficient fence.

Sec. 1540. (Penalty.) Any person failing to comply with

the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be liable for all damages.

Sec. 2370. (Mineral lands to be leased.) Any state lands upon which stone, coal, coal oil, gas, or any mineral may be found, whether such land has theretofore been leased for a term of years or not, may be leased for the purpose of obtaining therefrom such stone, coal, coal oil, gas, or any mineral, for such length of time and conditioned upon the payment to the state board of land commissioners of such royalty upon the product, as the state board of land commissioners may determine.

Sec. 2371. (Rules regarding lease.) The state board of land commissioners is hereby authorized to make all necessary rules and regulations to carry the foregoing section into effect.

Sec. 3134. (Concerns trials of mining cases.)

Sec. 3245. (Property exempt from execution.)

5. The cabin or dwelling of a miner not exceeding in value the sum of five hundred dollars; also his sluices, pipes, hose, windlass, derrick, cars, pumps, and tools not exceeding in value five hundred dollars.

Sec. 3511. (Action to determine adverse claim.) An action may be brought by any person against another who claims an estate or interest in real property adverse to him, for the purpose of determining such adverse claim.

3 Utah 235.

Sec. 3515. (Order for survey of lands and mines. Notice.) The court in which an action is pending for the recovery of real property, or for damages for an injury thereto, or to quiet title, or to determine adverse claims thereto, or a judge of such court may, on motion, upon notice by either party, for good cause shown, grant an order allowing to such party the right to enter upon the property and make survey and measurement thereof, and of any tunnels, shafts or drifts thereon, for the purpose of the action, even though entry for such purpose has to be made through other lands belonging to parties to the action.

Sec. 3521. (Mining customs and rules control when.) In actions respecting mining claims proof must be admitted of the customs, usages or regulations established and in force in the district, bar diggings or camp embracing such claim, and such customs, usages or regulations when not in conflict with the laws of this state, or of the United States, must govern the decision of the action.

EMINENT DOMAIN.

Sec. 3588. (Exercised in behalf of what uses.) Subject to the provisions of chapter 65, Revised Statutes, 1898, the right

of eminent domain may be exercised in behalf of the following public uses:

1. All public uses authorized by the government of the United States.

5. Reservoirs, dams, water-gates, canals, ditches, flumes, tunnels, aqueducts and pipes for supplying persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic or other uses, or for irrigating purposes, or for draining and reclaiming lands, or for floating logs and lumber on streams not navigable.

6. Roads, railroads, tramways, tunnels, ditches, flumes, pipes and dumping places to facilitate the milling, smelting or other reduction of ores, or the working of mines, coal mines or mineral deposits; outlets, natural or otherwise, for the deposit or conduct of tailings, refuse, or water from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal mines or mineral deposits; mill dams; natural gas or oil lines, tanks or reservoirs; also an occupancy in common by the owners or possessors of different mines, quarries coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, of any place for the flow, deposit or conduct of tailings or refuse matter.

10. Canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and storing water for the operation of machinery for the purpose of generating and transmitting electricity for power, light or heat.

Sec. 4356. (Concerns larceny of ores, etc.)

Sec. 4399. (Salting Mines. Fraudulent Assay.) Every person who, with intent to cheat, wrong, or defraud, places in or upon any mine or mining claim, any ores or specimens of ores not extracted therefrom, or exhibits any ore or certificate of assay of ore not extracted therefrom, for the purpose of selling any mine or mining claim, or interest therein, or who obtains any money or property by any such false pretense or artifice, is guilty of a felony.

Sec. 4400. (Changing samples or assay certificate.) Every person who interferes with, or in any manner changes, samples of ores or bullion produced for sampling, or changes or alters samples or packages of ores or bullion which have been purchased for assaying, or who shall change or alter any certificate of sampling or assaying, with intent to cheat, wrong, or defraud, is guilty of a misdemeanor.

Sec. 4401. (Making or publishing false assay.) Every person who, with intent to cheat, wrong or defraud, makes or publishes a false sample of ore or bullion, or who makes or publishes, or causes to be published, a false assay of ore or bullion, is guilty of a misdemeanor.

COAL MINES.

An Act providing for the appointment of a coal mine inspector, defining his duties, fixing his salary and providing for the inspection of coal and hydro-carbon mines; providing for the health and safety of the persons employed therein, and for the protection of property connected therewith, and repealing chapter 2, title 42, of the Revised Statutes of Utah, 1898.

This Act can be found on page 221 of the 1905 Session Laws of the State of Utah. It is too long for this book.

FIRE PROTECTION IN MINES.

An Act to provide for fire protection in all of the mines of the State of Utah, and defining the same.

Section 1. (Certain mines to have fire protection.) That all mines having but one exit, and the same is covered with the building containing the mechanical plant, furnace room, or blacksmith shop, shall have fire protection. Where steam is used, hose of sufficient length to reach the farthest point of the plant shall be attached to feed pump or injector, and the same kept ready for immediate use. In mines where water is not available, chemical fire extinguishers or hand grenades shall be kept in convenient places for immediate use, and it shall be the duty of any owner or operator of a mine in the State of Utah to provide fire protection as mentioned in this section, by July 1st, 1901.

Sec. 2. (Penalty.) Any person or corporation who shall refuse or neglect to comply with the provisions of this act, shall be guilty of a misdemeanor.

Approved this 25th day of March, 1901.

SAFETY APPARATUS IN MINES.

An Act providing for safety apparatus to be used in all mines with the vertical shaft.

Section 1. (Certain shafts to be provided with Safety cages.) It is unlawful for any person or corporation to sink any vertical shaft, where mining cages are used, to a greater depth than two hundred feet, unless the shaft is provided with an iron bonneted safety cage, to be used in lowering and hoisting employees, or any other person. The safety apparatus, whether consisting of eccentrics, springs, or other device, must be securely fastened to the cage, and of sufficient strength to hold the cage loaded at any depth to which the shaft may be sunk. The iron bonnet must be made of boiler sheet iron of good quality, at least three-sixteenths of an inch in thickness, and must cover the top of the cage in such manner as to afford

the greatest protection to life and limb from any debris or anything falling down the shaft.

Sec. 2. (Penalty.) Any violation of this act is punishable by a fine of not less than two hundred or more than five hundred dollars, the same to be paid into the county treasury of the county in which the case is tried.

Sec. 3. This act shall take effect upon approval.

Approved this 25th day of March, 1901.

LEASING AND SELLING MINING CLAIMS OF ESTATES.

An Act to authorize administrators, executors and guardians to lease mining claims and give an option to purchase the same, and authorizing the court to require bonds and prescribing conditions under which title may be obtained. (Page 9, Laws of 1903.)

Section 1. (Leasing mining claims belonging to estates.) When all or any portion of the estate of any person deceased, or of any ward under guardianship, consists of mining claims, whether patented or unpatented, or of interests in mining claims, the administrator or executor of such deceased person or the guardian of the property of the ward, may petition the court having jurisdiction of the estate for leave to lease mining claims, or interests in mining claims, belonging to the estate of the deceased, or to the ward with an option to the lessee to purchase the same; and if upon the hearing it appears to the court that it is for the interests of the estate, the court may make an order authorizing the administrator, executor or guardian to lease all, or such mining claims or interest therein belonging to the estate as he shall designate in the order, and to give an option to the lessee to purchase the same within a specified time, at a stipulated price, and when such order has been made, the executor, administrator or guardian may lease the mining claims specified in the order, and give the lessee an option to purchase the same, within the time, and at the price, specified in the order.

Sec. 2. Provides for bond of administrator before sale is confirmed.

Sec. 3. If the lessee complies with the terms of the lease, and accepts the options, and tenders the stipulated price, he shall be entitled to a deed for the mining claims upon which the option was given, but no titles shall pass, under such option, until the acceptance of the option, and the deed executed pursuant thereto, have been reported to, and approved by the court.

Sec. 4. This act shall take effect upon approval.

Approved this 20th day of February, 1903.

An Act providing for the establishment of a State School of Mines. (Approved March 13, 1901, see page 31, Session Laws 1901.)

TAXATION.

The law on taxation of mines and their net proceeds, as revised to March 11, 1909, can be found in full in session laws of Utah, 1909, page 92. Too long for publication here.

OPERATION AND ABANDONMENT OF OIL WELLS, ETC.

(Act of 1909.)

Section 1. (Duties of Owner or Operator.) When any well shall be drilled in this State on lands producing or containing petroleum or natural gas, it shall be the duty of the owner or operator thereof, before drilling said well into the oil or gas-bearing sand or strata, to encase such well in such manner as to effectually exclude and prevent all water from reaching said oil or gas-bearing sand or strata.

Sec. 2. Id. And it shall be the duty of said owner or operator, before abandoning or ceasing to operate any such well, to securely and effectually plug said well, and to fill it up with sand or rock sediment to a depth of at least fifty (50) feet above the top of the oil or gas-bearing sand or strata in such manner as to exclude all water from reaching said oil or gas-bearing sand or strata, and also as to prevent any oil or gas escaping therefrom.

Sec. 3. (Penalty.) Any person, firm or corporation violating the provisions of this act shall be deemed guilty of a misdemeanor, and shall be sentenced upon conviction thereof to the payment of a fine not exceeding one thousand dollars.

Approved March 23, 1909.

IRRIGATION AND WATER RIGHTS.

The new law of Utah concerning irrigation and water rights, enacted in 1909, can be found in Laws of Utah, 1909, at page 84. It is too long for this book and is a subject by itself.

UTAH.

LOCATION NOTICE LODE CLAIM.

For this form use the same as given for Arizona.

UTAH.
LOCATION NOTICE PLACER CLAIM.

For this form use the same as given for California.

UTAH.
DIAGRAM OF LODE CLAIM.

For this map see page, 35, Arizona Laws—use same.

AFFIDAVIT OF LABOR PERFORMED AND IMPROVEMENTS MADE.

State of Utah,
County of....., ss.
....., being duly sworn, deposes and says that he is a citizen of the United States, and more than twenty-one years of age, and resides at.....in .....County, State of Utah, and is personally acquainted with the mining claim known as..... .....mining claim, situate in ..... Mining District, County of ....., State of Utah, the location notice of which is recorded in the office of the County Recorder of said County, in Book..... of records of Mines, at page.....; that between the.....day of....., A. D. 19..., and the.....day of....., A. D. 19..., at least.....dollars' worth of work and improvements were done and performed upon said claim, not including the location work of said claim. Such work and improvements were made by and at the expense of..... ..... owner.. of said claim, for the purpose of complying with the law of the United States pertaining to assessment of annual work, and John Smith, working .....days in said period of time (then follow with other names in same manner) were the men employed by said owner.., and who labored upon said claim, did said work and improvements, the same being as follows, to-wit:

.....

The number of cubic feet of earth (or rock) removed while doing said work was.....cubic feet.

.....

Subscribed and sworn to before me this.....day of ....., 19....
My commission expires .....
.....
Notary Public.

For affidavit of work done on groups use above form in connection with form on page 37.

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Corporation Laws

OF

Arizona, California and Nevada

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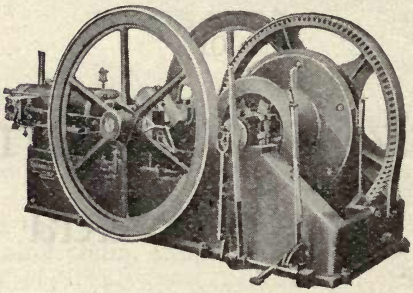

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General Legal Information

A corporation may, by its agent, locate a mining claim. McKinley v. Wheeler, 130 U. S. 630. 70 Fed. R. 463.

In the case of Thompson vs. Spray, 72 Cal. 531, it was decided that a minor child may make a mining location.

The title to mining claims that are not patented is occupation and development, and the title is conditional upon such occupation and development.

No discovery of mineral is complete until the actual vein is discovered; the finding of float or loose quartz is not a sufficient discovery to warrant a lode location.

Discovery of ore that will pay to work is not essential to a mining location, but it is sufficient if its value is such that one will be willing to further develop and follow the vein.

In order to hold two or more claims it is necessary that there should be a discovery of mineral on each of the claims. An extension of a mining claim can not be held by reason of discovery on another claim. Where, owing to the nature of the ground, stakes can not be driven in where the statute requires stakes, it is sufficient that the stakes be held in place by a pile of stones.

Where an application has been made for a patent on one or more mining claims the annual labor must be kept up after the application and until final entry.

While the Congressional Act of 1880 does not require annual labor upon a claim during the year location is made, still such annual expenditure may be required during the location year by State Statute.

The following things will count for annual labor:

1. Any labor performed for the purpose of discovering mineral.
2. Building a road to reach the mining claim.
3. Building a flume, drain or ditch to get water on a claim.
4. Wages of a watchman where the mine is idle.
5. Work done off of the claim when it is a direct reference to the drainage or development of the claim.

The following work will not count:

1. Building a house for dwelling away from the claim, though near it.
2. Expense of taking tools, lumber, etc., to the mine.

3. Traveling expenses in going to and coming from the mine.

Where the owner of the claim has not done his annual labor, but begins work on Dec. 31st, and prosecutes the work continuously to the amount of $100 a claim, his claim or claims can not be re-located on Jan. 1st, but his work must be continuous until the whole $100 has been expended.

Where several owners of a claim have allowed the year to expire without doing the annual labor and one of such owners attempts to re-locate the claim for himself the Court will decide that such re-location is for the benefit of all the former owners.

An amended location notice relates back to the date of original location and with all its right and privileges, provided no adverse rights have in the meantime intervened. (40 Fed. 787.)

A placer claim is a location in which gold is found loose in sand or gravel and not in a vein or in place. It includes gulch claims, old channels, cement and drift diggings.

The amount of ground which can be located as a placer claim is limited to twenty acres to each person, but an association of persons may locate a claim in common, which will in the aggregate not exceed twenty acres to each person in the association, and not exceed 160 acres in all. In such case a separate discovery is not required on each twenty acres but a discovery on any part is sufficient. One person may locate more than one twenty-acre claim.

The following table will show the dimensions of placer claims:

Claim	466.69	x	466.69	feet contains	5 acres.
Claim	660	x	330	feet contains	5 acres.
Claim	660	x	660	feet contains	10 acres.
Claim	1320	x	660	feet contains	20 acres.
Claim	800	x	1089	feet contains	20 acres.
Claim	933 1-3	x	933 1-3	feet contains	20 acres.
Claim	1320	x	1320	feet contains	40 acres.
Claim	2640	x	2640	feet contains	160 acres.

Tailings are the property of the miner who made them so long as they are retained on his own land, or under his own control and not abandoned, but when allowed to flow upon the land of another the other becomes entitled to them.

A quit-claim form of deed is the one commonly used to transfer title to an unpatented mining claim, but care should be taken to properly describe the mining claim by reference to the book and the page of the County Records in which the original location notices are to be found, and reference to them should be made for description. It is not necessary that the wife of an owner of a mining claim should join her husband in convey-

ing a mining claim in either Arizona or Nevada but it is necessary in California and Utah. Where the ownership of the claim is in the wife, it is necessary for the husband to join in the deed in all of the places named.

A person desiring to obtain a deed, a lease, a working bond or an agreement to sell a mining claim should consult a lawyer who is conversant with mining law in the state in which the claim is located, unless he is looking for a law suit. Before paying out money for such purposes an examination of the title of the reputed owner of the mining claim should be carefully made; by doing these things for a small payment of money trouble can be avoided to get out of which (if fortu nate) many hundreds will later be paid.

MINING BLANKS.

Any Blank in this book, except the one on page 40, can be purchased for 5 cents each by writing to (enclosing money order or stamps for amount of purchase),

CALVERT WILSON,

340 Wilcox Building. Los Angeles, California.

INCORPORATING UNDER ARIZONA LAWS.

The incorporation laws of Arizona are very liberal and easily complied with. They are preferable for incorporation in most cases to the laws of any other state. We shall be glad to consult with you about them.

COSTS OF INCORPORATION.

Filing Articles with Corporation Commission	$10.00
Certified Copy from Corporation Commission	5.00
Recording Copy with County Recorder	4.00
Charter from Corporation Commission	10.00
For Certificate that all papers are filed (optional)	5.00
Filing Appointment of Resident Agent	5.00
Fee of Resident Agent for one year	10.00
Publishing Articles in Newspaper	20.00
Total	$69.00

Note: The amount of capital stock makes no difference in cost.

CONTRACT TO SELL AND TO BUY.

I, ..., vendor, hereby agree to sell to ....., and I, ... purchaser, agree to buy of said....., the ..... Placer Mining Claim, situate, etc.

The agreed consideration of said sale is $1,000.00 cash in hand paid, the receipt whereof is hereby acknowledged; $3,000.00 to be paid within.....days from the date hereof, and $6,000.00 with.....days from such date, making a total consideration of $10,000.00.

Said vendor with ten days from date will deliver to purchaser, or his attorney, an abstract of title duly certified by the Clerk and Recorder of said County, or by some reputable abstract office, together with all the original title papers which are in his possession or within his power to produce.

And within said time will place in escrow in the..... Bank of.....a good and sufficient..... deed conveying to said....., or such person as he shall nominate, the said premises clear of encumbrance, to be by such bank held in escrow until final payment be made under this contract or default is made under the same. Deposit in said bank to the credit of vendor shall be equivalent to payment of any of said installments.

Time is of the essence of this contract as to each and every installment, and if any installment or installments be not paid within the time or times hereby limited therefor, all previous installments shall be and remain the property of said vendor, the deed in escrow shall be returned to him for cancellation, and the property shall remain his own, unaffected and unencumbered by this contract. But if he fail to deliver abstract within said period, or to deposit said deed in escrow, or if his title prove encumbered or otherwise not marketable, vendee may recover any and all installments paid, or may sue for specific performance and for a perfect title, or for damages or otherwise as he may be advised.

WITNESS the hands and seals of said parties this..... day of....., A. D. 19....

.....(Seal)

.....(Seal)

BOND FOR A DEED OF MINING PROPERTY.

That.....of the County
Know all Men by These Presents:
of ..... and ..... the part.....of the first
part, ...held and firmly bound unto.....
.....of the County of.....and
.....the part..... of the second part, in the
sum of.....Dollars, ...
of the United States of America, to be paid to the said.....
..... executors, administrators or assigns; for which payment well and truly to be made.....
bind.....heirs, executors and administrators
.....firmly by these presents. Sealed with
.....seal....and dated the.....day of
.....A. D. One Thousand Eight Hundred and Ninety.....

THE CONDITION of the above obligation is such, that if the above bounded obligor.... shall, on the.....
day of.....A. D. One Thousand Eight Hundred and Ninety.....make, execute and deliver unto the said.....or to
.....assigns, (provided that the said.....
shall on or before that day have paid to the said obligor....
the sum of.....Dollars, ...
of the United States of America, the price by said.....
.....agreed to be paid therefor), a good and sufficient deed for conveying and assuring to the said.....free
from all incumbrances, all.....right, title and interest, estate, claim and demand, both in law and equity, as well in possession as in expectancy, of, in or to that certain portion, claim and mining right, title or property on.....certain
vein.... or lode.... of rock containing precious metals of gold, silver and other minerals, and situated in the.....
.....Mining District, County of.....
and ..... and described as follows, to-wit:...
.....
Then this obligation to be void, otherwise to remain in full force and virtue.

Signed, Sealed and Delivered in the presence of

.....
.....
.....

.....(Seal)
.....(Seal)
.....(Seal)
.....(Seal)

Acknowledge before Notary Public.

MINING DEED.—QUIT CLAIM.

THIS INDENTURE, made this.....day of....., in the year One thousand, nine hundred and....., between .....of....., the party of the first part, and.....of....., the party of the second part,

WITNESSETH, that the party of the first part, for and in consideration of the sum of.....Dollars, lawful money of the United States, to him in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, does by these presents sell, confirm and quit-claim unto the said party of the second part, and to his heirs and assigns, all those certain.....quartz mining claims, situated in .....Mining District, ...County, State of....., and more particularly described as follows:

(An undivided one-half interest in and to) the..... Mining Claim, the location notice of which is recorded in Book ....., page....., Notices of Mining Locations, in the office of the County Recorder of the County of..... State of....., and recorded in Book....., page ....., of the Mining Records of said.....Mining District.

(Here describe balance of claims as above.)

TOGETHER, with all dips, spurs, angles and variations and all the metals therein; and all the rights, privileges and franchises thereto incident, appendant and appurtenant, or therewith usually had and enjoyed; and also all and singular the tenements, hereditaments and appurtenances thereto belonging, or in any wise appertaining, and the rents, issues and profits thereof; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in or to the said premises, and every part and parcel thereof, with the appurtenances.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances and privileges thereunto incident, unto the said party of the second part, his heirs and assigns forever.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and seal the day and year first above written.

....(Seal)

....(Seal)

Acknowledge before Notary Public.

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POISONING AND ACCIDENTS.

First. Send for a physician.

Second. Induce vomiting by tickling throat with a feather or finger; drinking hot water or strong mustard and water. Swallow sweet oil or whites of eggs.

Acids or antidotes for Alkalies and vice versa.

ACIDS.—Muriatic, Oxalic, Acetic, Sulphuric (Oil of Vitrol), Nitric (Aqua Fortis). Antidotes.—Soap-suds, Magnesia, lime-water.

PRUSSIC ACID. Antidote—Ammonia in water. Dash water in face.

CARBOLIC ACID. Antidote—Flour and water, mucilaginous drinks.

ALKALIES. Potash, Lye, Hartshorn, Ammonia. Antidotes. —Vinegar or lemon-juice in water.

ARSENIC. Rat Poison, Paris Green. Antidotes—Milk, raw eggs, sweet oil, lime-water, flour and water.

BUG POISON. Lead, Salt-petre, Corrosive Sublimate, Sugar of lead, Blue Vitrol. Antidotes—Whites of eggs, or milk in large doses.

CHLOROFORM. Chloral, Ether. Antidotes—Dash cold water on head and chest. Artificial respiration.

CARBONATE OF SODA. Copperas, Cobalt. Antidotes—Soap-suds and mucilaginous drinks.

IODINE. Antimony, Tartar Emetic. Antidotes—Starch and water astringent infusions. Strong tea.

MERCURY AND ITS SALTS. Antidotes—Whites of eggs, milk, mucilages.

OPIUM. Morphine, Laudanum, Paregoric, Soothing Powders or Syrups. Antidotes—Strong coffee, hot bath. Keep awake and moving at any cost.

PTOMAINE POISONING. Keep drinking hot water, quarts if necessary until stomach is cleansed and empty—Take hot rectal injections.

DROWNING.—1. Loosen clothing, if any. 2. Empty lungs of water by laying body on its stomach and lifting it by the middle so that the head hangs down. Jerk the body a few times. 3. Pull tongue forward, using handkerchief or pin with string, if necessary. 4. Imitate motion of respiration by alternately compressing and expanding the lower ribs, about twenty times a minute. Alternately raising and lowering the arms from the sides up above the head will stimulate the action of the lungs. Let it be done gently but persistently. 5. Apply warmth and friction to the extremities. 6. By holding tongue forward, closing the nostrils and pressing the "Adam's apple" back (so as to close the entrance to stomach, direct inflation can be tried. Take a deep breath and breathe

it forcibly into the mouth of the patient, compress the chest to expel the air and repeat the operation. 7. DON'T GIVE UP! People have been saved after hours of patient, vigorous effort. 8. When breathing begins get patient in warm bed, give warm drinks or spirits in teaspoonfuls, fresh air and quiet.

BURNS AND SCALDS. Cover with cooking soda and lay wet cloths over it. Whites of eggs and olive oil. Olive or linseed oil, plain or mixed with chalk or whiting.

LIGHTNING. Dash cold water over a person struck.

SUNSTROKE. Loosen clothing. Get patient into shade, and apply ice cold water to head.

MAD DOG OR SNAKE BITE. Tie cord tight above wound. Suck the wound and cauterize with caustic or white hot iron at once, or cut out adjoining parts with a sharp knife.

VENOMOUS INSECTS STINGS, ETC. Apply weak Ammonia, Oil, Salt water or Iodine.

FAINTING. Place flat on back; allow fresh air, and sprinkle with water.

CINDERS IN EYE. Roll soft paper up like a lamp lighter and wet the tip to remove, or use a medicine dropper to draw it out. Rub the other eye.

WATER MEASUREMENTS.

Arizona law has made the cubic foot of water the legal measure in that State. Where miner's inches have been used, 100 inches are to be counted as the equivalent of 2½ cubic feet a second.

California law has made a miner's inch equivalent to 1½ cubic feet of water per minute through any aperture.

LAND MEASUREMENTS.

1 Rod	16½ feet
1 Mile	320 rods
1 Chain	66 feet
1 Mile	80 chains
1 Acre	43,560 square feet
1 Mile	5,280 feet
1 Mile Square	640 acres
10 Acres	435,600 square feet or 660 feet square

PROPER METHOD OF OBTAINING SAMPLES.

(By Jas. Irving & Co., Los Angeles.)

It is a well known fact that an assay obtained from one or two pieces of ore cannot represent an average of the vein or mine from which it is taken, as in nearly every instance one piece will be richer or poorer than another, or if one piece is broken in two, each part will give a different assay.

We would advise that samples for assay be taken clear across the vein. These samples should be taken on a clean canvas, and then broken with a hammer until there is no piece larger

than an inch in diameter. The sample should then be thoroughly mixed on the canvas, and left in a round pile, similar to a large pie. It should then be divided into four quarters as though you were cutting the pie, and the two opposite quarters carefully taken away and reserved for another sample or thrown away. This process, which is called quartering, should be repeated until you have from three to five pounds left on the canvas, which can then be transferred into a sample bag, being careful to take all the dust or dirt when it is ready to ship to the assayer.

Where you wish to get a fair sample of the whole ledge or of a mine, this process of sampling should be continued at exact intervals of five or ten feet on the vein, and the assays from such samples divided by the number of samples taken, would give you the average value of the ore in the vein or in the mine.

We will cheerfully furnish, free of charge, a reasonable number of small sample sacks for taking such samples.

PROSPECTING OUTFIT FOR GOLD.

1. A miner's hornspoon or a gold pan.
2. An iron mortar and pestle for pulverizing rock. A No. 40 wire sieve might be useful also.
3. Strong nitric acid, 1 or 2 pounds.
4. Mercury, a few pounds, and a little sodium amalgam and potassium cyanide.
5. A small dish or bucket of water for horning or panning in.
6. A small iron pan or a piece of sheet metal for roasting.
7. A small porcelain tub, with watch glass or other suitable cover for retorting in. Miners sometime tie up the amalgam in a rag and roast in the ashes.
8. An alcohol lamp and alcohol for heating.
9. A blowpipe, and stick of willow charcoal; a little borax, soda, etc.
10. A wedgewood mortar and pestle, or a stoppered bottle, for mixing the ore and mercury.
11. A pick and hammer; and, if quantitive results are desired:
12. Pulp and assay balances. Cheap scales may be used provided sufficient pulp is treated to overcome their lack of delicacy. Of low-grade ores, it is necessary to treat considerable pulp to get a weighable quantity of the gold.

MINING TERMS.

Adit—A tunnel on the vein.

Alluvium—Materials transported and deposited by water.

Amalgam—Gold or Silver combined with Mercury.

Apex—The top or higher point of a vein.

Auriferous—Any rock or sand bearing gold.

Bed-rock—Rock underlying placer mines.

Blind Lode—Where there appears no outcrop to a vein.

Breast—The face of a tunnel or drift.

Breccia—Angular rocks cemented together.

Cage—An elevator used in hoisting ore.

Cap-rock—Rock overlying the vein stone or ore.

Collar—The top of a shaft or winze.

Contact—A junction of two kinds of rock such as lime and porphyry.

Contact-vein—A vein between two dissimilar rock masses.

Country-rock—The rock on each side of a vein.

Crosscut—A level driven across the course of a vein.

Face—The end of a drift or tunnel.

Fault—The displacement of a stratum or vein.

Feeder—A small vein entering into a larger vein.

Fissure vein—A crack in the earth's crust containing mineral.

Foot wall—Rock beneath a vein.

Gash vein—A vein wide at the top and closing at a short depth.

Hanging wall—The layer of rock or wall overhanging a lode.

Horse—A mass of rock between the branches of a vein.

In place—Not having been disturbed from its original position.

Level—A horizontal passage in a mine diverging from the shaft.

Outcrop—The portion of a vein showing at the surface.

Petering—Giving out; failing.

Pocket—A rich spot in a vein or deposit.

Salting a mine—Placing foreign ore in the crevices of a vein for the purpose of deceaving.

Stoping—The act of excavating the ore from the roof or floor of a drift.

Strike—The extension of a lode in a horizontal direction.

Stulls—A frame work to support the rubbish when stoping.

Sump—A hole at the bottom of a shaft or tunnel for the collection of water.

Vein—An aggregation of mineral matter in rock fissure.

Winze—A shaft sunk from one level to another.

TROY WEIGHTS.

All precious metals are weighed by Troy weights, which are as follows: 24 grains—1 pwt.; 20 pwts.—1 oz.; 12 ozs.—1 lb.

To reduce Av. to Troy weights: 1 pound Av.—7,000 Troy grains. Weigh your bullion in pounds and ounces Av. and reduce it to grains. Divide the number of grains thus obtained by 480, the number of grains to a Troy ounce; this will give you the number of Troy ounces. If any grains are left divide them by 24, the number of grains in a pennyweight. This will give you the number of pennyweights; any grains left after the last division are Troy grains, giving you the result in ounces, pennyweights and grains, Troy.

14½ ounces Troy equals a pound of Av.

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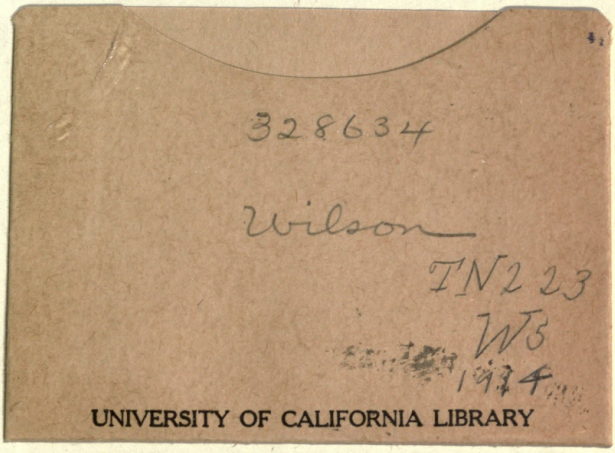
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